

RULES SUB-COMMITTEE MEETING
COMMITTEE OF THE WHOLE

February 10, 2011

A meeting of the Rules Sub-committee of the Committee of the Whole of the Council of the County of Kaua'i was called to order by the Sub-committee Chair at the Council Chambers, 3371-A Wilcox Road, Lihu'e, Kaua'i, on Thursday, February 10, 2011 at 1:34 p.m., after which the following members answered the call of the roll:

Honorable Nadine K. Nakamura
Honorable JoAnn A. Yukimura

EXCUSED: Honorable Derek S. K. Kawakami

Committee Chair Yukimura: Councilmember Kawakami has been excused. He's at the legislature today testifying on one of our bills before the legislature. So we have the agenda before us.

APPROVAL OF AGENDA:

Committee Chair Yukimura: There being no objection, the agenda is approved as circulated.

BUSINESS:

R-2 Discussion of potential/desired revisions to Council Rules.

R-3 Continued discussion of proposed rules change from previous sub-committee meeting.

Committee Chair Yukimura: We have two items on the agenda. One is a list of work that has been done by our staff, legal analyst Peter Morimoto. And then the other is a continuation of the list that we were working on last time which we didn't get through. And do you have a copy of your list or do you need one?

Ms. Nakamura: I have a list.

Committee Chair Yukimura: Okay. And for members of the public, the list is on the podium over there. But before we...I'm going to ask for testimony at the...I'm going to suspend the rules now and ask for testimony on the agenda items. You can talk on either one. And then I'm going to ask for testimony from the public at the end of our discussion. And if there's some urgent desire to testify in-between, if there are only a few people I will consider it. Okay, the Chair will suspend the rules at this time and open it up for public testimony. Councilmember Bynum.

There being no objection, the rules were suspended.

Committee Chair Yukimura: Do you have copies of your testimony for us?

(Inaudible.)

Committee Chair Yukimura: Oh, this is from Tim. Peter, do you have wording that you also... Which one is yours and which one is Tim's?

PETER MORIMOTO, Legal Analyst: At the top it says, provided by council services staff.

Committee Chair Yukimura: This is yours?

Mr. Morimoto: Yes.

Committee Chair Yukimura: And this is Tim's.

Mr. Morimoto: And that's Tim's, yes.

Committee Chair Yukimura: Thank you, okay, thank you. Please proceed.

TIM BYNUM, Councilmember: Thank you.

Committee Chair Yukimura: With your name first.

Mr. Bynum: For the record this is Tim Bynum and I have three rules that I'd like the committee to consider and if I could address each one separately, and I'd like to start with the one that's at the back of your packet.

Committee Chair Yukimura: Can everybody hear Mr. Bynum?

Mr. Bynum: Council Rule 10(c).

Committee Chair Yukimura: Can you talk more directly into the mike?

Mr. Bynum: Yes.

Committee Chair Yukimura: Thank you.

Mr. Bynum: So the first rule is an amendment to Rule Section 1, 10(c) and 10(a) says, paraphrasing, any bill or resolution can be introduced by any councilmember. Rule 10(c) currently says, titled "Placement on the Agenda" that all bills, resolutions must be initialed by the council chair or, in the chair's absence, the vice chair (or other designated chair as stated in Rule 3) in order to be placed on the agenda. My interpretation of that rule ever since I've been following council was that the chair is the administrator of the council and needs...everything needs to go through the chair, needs to be initialed to acknowledge and to be placed on the agenda. I didn't believe that that rule entitled the chair to keep any councilmember's bill or resolution off of the agenda indefinitely. I didn't think it gave him preemptive veto power. And it's consistent with the rules in the preamble where it says the intent of the rules is to...that the majority decides but that the minority has a voice. So I always wondered, how does the minority have a voice if the chair can preempt any public knowledge even of a councilmember's proposal? That seemed inconsistent with the democratic principle of giving the minority a voice. And how does the minority become the majority? They make an argument in a public forum where councilmembers are held accountable for the choices they make, and through debate and discussion, maybe change votes and find themselves in a majority position. That's the essence of democracy to me. So I'm proposing that this rule be clarified and the language that I suggest in 10(c) where it says "Placement on the Agenda" says "in order to appropriately coordinate the agenda, all bills and resolutions must be initialed by the council chair or, in the chair's absence, the vice chair (or other designated chair as stated in Rule 3) in order to be placed on the agenda." And then add the sentence, "the chair or his designee shall

not use this rule to restrict introduction of any bill or resolution introduced by any member indefinitely." So I liked keeping it open and conceptual rather than saying, the chair needs to put it in within 90 days. I didn't want to...because you know you never know what the circumstances are going to be and there may be real legitimate reasons why a bill or resolution be held up for a period of time in order to appropriately coordinate the workload of the council. But I also think it's important because of past instances and potential future instances to make it clear that the chair doesn't have a preemptive veto power, that an elected official has the right to place their proposal, be it a bill or a resolution, on the agenda eventually for public dialogue and discussion.

Committee Chair Yukimura: Okay, three minutes are up, but you can extend, and we're...yeah, I will administer the rule judiciously, so.

Mr. Bynum: Oh, okay, so that's rules 10(c)...

Committee Chair Yukimura: All right.

Mr. Bynum: ...and I had three, so. The other one I'd like to address is the one that's in the middle of the packet. Currently majority vote is required by councilmembers on most instances, but Rule No. 2 gives instances when a supermajority is required: currently in the issuance of general obligation bonds or to override a mayor's veto, and to suspend without pay for not more than one month any member for disorderly or contemptuous behavior or for personal vilification in its presence. So if we're going to censure a councilmember, we need a supermajority, if we're going to override a mayor's veto or we're going to issue general obligation bonds. I suggest that we add to that a supermajority is required to authorize the release of opinions upon questions of law rendered by the office of the county attorney and requested by the council. The background to this is that few, if any, county attorney opinions as to law have been released in the four years I've been on the council. Contrast that with Maui where the majority of their opinions are published on the website and that decision is made by the Corp. Counsel or the county attorney on Maui. Contrast that to the State Legislature, who in their first meeting added a law that said opinions of law shall be made public. So the Attorney General is under a Hawai'i State Revised Statute to make opinions of law public. When we ask the county attorney what does the law tell us about this, what does the...and he's giving us an interpretation of law, most of those are uncomplicated by confidentiality matters and those that are not, we should have a mechanism to decide to release those to the public. And to me a reasonable mechanism was a supermajority. There is a county attorney's opinion about this proposal that I hope will be circulated to your committee and to councilmembers. I had requested that a few weeks ago.

Committee Chair Yukimura: Well, I'm going to request it right now from me to our staff attorney to please make those...that county attorney opinion available to members of this committee. Yeah, you don't have it and you don't have access to it?

(Inaudible.)

Committee Chair Yukimura: You can get it? Yeah, okay. You don't need to make it right today.

Mr. Bynum: Right, because I just wanted to place these before the committee today and then allow you...

Committee Chair Yukimura: Right, right.

Mr. Bynum: So the second one has to do with release of opinions of law and I'm suggesting that that be accomplished by a supermajority of the council.

Committee Chair Yukimura: Thank you.

Mr. Bynum: You know, the last one in my mind is the most important of these three.

Committee Chair Yukimura: Six minutes, but please proceed.

Mr. Bynum: Okay, it's to draw a distinction about who owns a privilege and at what point in a process. So basically as councilmembers, we may be contemplating a bill or a resolution, and we want to do research and we want to get legal advice. And under the charter, the county attorney is our advisor. And during that period of time when there's nothing on the council agenda and it's just exploratory and research by a councilmember, the privilege, I believe, is held by the councilmember. So what they choose to share about what the county attorney says to them is up to that councilmember. On the other hand, once a bill is placed on the agenda or a resolution...

Committee Chair Yukimura: And an opinion.

Mr. Bynum: ...and a...

Committee Chair Yukimura: Once a bill...

Mr. Bynum: Once a bill or a resolution or even a discussion is placed on the council agenda, the individual councilmember no longer holds the privilege. It becomes now the ownership of the body.

Committee Chair Yukimura: Okay.

Mr. Bynum: Does that...I'm not saying this very articulately, but...so I'll use an example. I'm contemplating a bill about pesticides and I want to get county attorney opinions, but I haven't decided whether I'm going to place it on the agenda. All of that work is privileged, it's private, it's up to me who I share it with. But now I've completed the draft bill; I've placed it on the agenda. Now it becomes the property of the body.

Committee Chair Yukimura: Okay.

Mr. Bynum: Okay and then any dialogue regarding that bill with the county attorney should be...the privilege belongs to the entire body. Now I believe that is the standard that there is in the law now, but there have been instances where that hasn't occurred. So now if I want an opinion of the county attorney about that bill, I think that opinion, the request, and the response should be shared by the entire body. It's not practical...

Committee Chair Yukimura: I see.

Mr. Bynum: ...for the county attorney to be answering legal questions of all seven councilmembers, you know, and have an expectation of confidentiality. These opinions are confidential in terms of the body until the body releases them, that's why the other one. So to draw that line to say the privilege exists with the individual councilmember until it becomes an agenda item, then the privilege applies to the body. So, requests should be generated and go through the council or committee chairs as is appropriate and responses or answers from the county attorney should be distributed to all councilmembers concurrently. So, I'm going to just read this into the record and then I will be done with my testimony. So this would propose creating a Rule 21, Communication With The County Attorney: "Requests for opinions made by individual councilmembers to the County Attorney and opinions received pursuant to those requests shall be privileged communications between the councilmember making the request and the county attorney if the subject matter of the request and opinion have not been placed on the council agenda. If the subject matter of the opinion and the request has been placed on the council agenda, then the request for the opinion and the opinion received pursuant to that request shall be circulated concurrently to other councilmembers but shall remain privileged communication with regard to other parties." So it's drawing that line in making a distinction. Prior to placing a matter before the body, the communication is privileged between that member and the county attorney. But once it goes onto the council agenda, that privilege exists between the county attorney and the body, and so the body needs to coordinate their requests and responses. That's what I'm proposing.

Committee Chair Yukimura: Okay, thank you. Any questions? Thank you very much.

Mr. Bynum: Thank you very much and for the record, I'll be exiting the meeting at this time.

(Mr. Bynum was noted to have left the meeting.)

Committee Chair Yukimura: Okay, thanks very much. Anybody else from the public? Mr. Taylor? If you would state your name before you start speaking. I mean...

KEN TAYLOR: Chair and committee, first of all I did pass in some written comment. Did you receive that? The...first before I get started with my comments, I'd just like to comment on the two or the three issues that Tim raised, and I agree basically with the three issues that he raises, although I have, in reference to Rule 10(a), a different suggestion for changing the wording and it basically says, all bills or resolutions may be introduced by any member, which is current wording, and then I add "and shall be brought to the agenda in a timely manner not to exceed 120 days." And I think that really simplifies and clarifies what it is that is supposed to happen. It also gives some flexibility to the chair for adding this i...whatever request to the agenda. And so if there's time permitting or if it's an urgent issue, it could be dealt with in a timely manner, and...but not to exceed 120 days.

So with that I'll go back to the beginning of my recommendations and I suggest changing the name of the document to "Rules of Procedure and Organization of the Council." This isn't my thing. I just real...I saw this, I believe it was on the County of Hawai'i document and it makes more sense because these rules do deal with more than just procedure. There's some occu...organizational activities involved, so I would suggest that that be considered.

Under Rule 3(c) add that the county clerk shall post the agendas and all back-up material on website and the county clerk shall maintain a complete board packet at the front desk. What may not have been clear in my consideration there now is that today any of the public can get on a list that receives the agenda. And I really strongly believe, and it's a very rather simple thing to do is that the backup material be a...if you go down the agenda and you say agenda item number one or number three, I'm interested in that and I click on that and here comes up the material in reference to that document. And I think that, again, open...open public government is the best democracy. So I think these are important to consider.

Committee Chair Yukimura: Okay, excuse me. Three minutes are up, but please continue for the next three.

Mr. Taylor: Thank you. Rule 9, again this comes from a situation that took place this last year where a group of individuals signed to have something reconsidered and it was never done. And so I'm suggesting that you add "within 60 days" so that... After all government is for the people and by the people, and I strongly believe that if they want to question something that has taken place that it should be dealt with in a timely manner.

Going on to Rule 11, put on the agenda giving of certificates with estimated time of activity and I say this because sometimes people come to the meeting at 9 o'clock and you may have three or four different individuals or groups that you're giving recognition to and I think that's very good and it's very important. But people that are coming for the agenda item should be aware of that when they read the agenda and I think that that way we know that well, it's not going to be until 11 o'clock that you'll actually get started on the agenda and I think that's only fair to the public.

Rule 14, I made some suggestions for adding three items to the agenda: public comment, certificates, and thirdly the consent agenda, and basically took the order that is currently in the document and rearranged a little bit. For the most part, it all just shifted down one...a little bit. But again, putting public comment at the beginning of the agenda after the meeting is called to order and the previous minutes and the agenda are approved. Public comment, again, and I didn't get into the details of where, what rule public comment should actually come under. I hope that you will work with that.

Committee Chair Yukimura: Okay, excuse me. So six minutes is up, but I see you're on your last item, so if you can just...

Mr. Taylor: Yeah and so I think again these three items that I'm adding or suggesting, public comment, certificates, and consent agenda, are, again, very important for the public as well as expediting moving the agenda along.

So...the one thing that I didn't...forgot to add to this list was in the past I've seen where different councilmembers have gone off to conferences and/or back to Washington or whatever, which is a cost to the community. I don't have a problem with that. I think it's an important part of government, but I would really like to see something in this document that when people have gone off to these functions that when they come back that they give an overview. You know, we spent money to go there and here's what we benefit from doing that and here is how this activity is going to benefit the community in the future. And so I really think that's an important thing. I know I was hoping Derek would be here today because a couple

year...two years ago after he got back from Washington I asked him, I said well, you going to give us a report and he said yeah. And two years later we still haven't gotten a report and so I have no idea the money that was spent, what benefit the community got from that junket, and like I say, I have no problem with that going there and doing that. But we should have an idea of what is going on, why it was necessary and what did we benefit from doing so. So thank you for those considerations.

Committee Chair Yukimura: All right, thank you for your testimony. Any questions? I have one question. Regarding your public comment suggestion, are you suggesting that we take all public comment at the beginning of the agenda?

Mr. Taylor: No, I'm not. Public comment, in my mind in this particular situation, is a 15-minute period at the beginning of the agenda that would allow people to come up and speak on anything that's not on that agenda just to...I may have a concern that I want you all to consider putting on an earlier...a next...some time...agenda in the near future or some other issue that pertains to government here on Kaua'i and/or we might have heard something that was going on on one of the (inaudible) that we think should be (inaudible - microphone going in and out) raise the (inaudible). Again (inaudible) government is for and by the people. They should have an opportunity to raise issues and I say raise issues that are not on that agenda.

Committee Chair Yukimura: All right, thank you for the clarification. Any other questions? Thank you, Mr. Taylor. Anyone else? Rob, if you would state your name as you start.

ROB ABREW: Aloha, committee members, my name is Rob Abrew. Just...I didn't see the agenda before today, but I have a couple items I'd like to express my opinion in and how they can go. One of the questions I asked at the swearing in of the members here was, are these rules of rule of law. After further research, I don't believe they are. I believe it's the rule for you seven members to abide by, to call each member out if they are not following the rules, and to, if a rule is acknowledged by the public that is being violated, to suspend that discussion until it can be researched and properly placed on the agenda. That's everyone's job at this table's duty to the public. We elect you to do the work here, not the county attorney. Every decision should be your decision unless it's a legal issue about sunshine and the decision made by you, not the county attorney that's hired by the mayor. You are a separate body from the administration. You should look at hiring an outside attorney for you seven members so you guys can get legal advice that is not determined by what the county attorney thinks, which is hired by an administrator. That's my first opinion.

My second opi...my second thought was Rule No. 3 describes the duties of the council chair. (5), it says, to receive and determine for disposition all matters properly brought to the council. So it's the chair's duty right now in the rules to bring everything that is properly brought before the council to a vote. That means any member that brings a bill or resolution has to be brought to a vote. That's the chair's job. My only thing is and it conflict...it doesn't conflict with Rule No. 10, but it's the chair who is abiding by these rules that makes that decision. So, it's this duty of the council to question the chair if something's not brought to this committee. My suggestion would either...to add on to Rule 3...(5) is within 90-day or 100-day...120-day period. That makes the chair have to bring something brought to them to a vote. You don't have to change No. 10(c) or anything like that. That's his duty listed in the rules to do.

Committee Chair Yukimura: So there...your three minutes are up.

Mr. Abrew: Okay.

Committee Chair Yukimura: And you can have another three.

Mr. Abrew: Thanks, (inaudible) JoAnn. Sorry, I can't pronounce your name. So that's my thought on Rule No. 3 is it's this body's duty to take to the chair if something's not on that has been properly presented to the county clerk to be put on the agenda. If it sits on the shelf for six months, the chair's not doing their job as stated in their duties, let alone 10(c). 10(c) is my...in my opinion is just an administrative duty to make sure the chair and the county clerk are talking with each other to get something on the agenda. To change all that, I don't think it's an issue because I...the chair is the presiding officer and per Rule No. 3.5, he cannot keep something off the agenda, and if we put a time limit on that then that assures that that properly brought item is going to be on the agenda with the 120 days.

My next thing is I think it was No. 10, but I don't think, in my opinion, No. 10 needs to be altered.

The next issue I have is Rule No. 15, which is the agenda and priority of business. All communications to be placed on the agenda must be initialed by the council chair—I agree—and received by the council or the office of the county clerk before 4:30 p.m. Friday two weeks preceding the day of the regular or committee meeting. I totally agree with the two weeks because there are other ways to get stuff on the agenda if an emergency arises. That's by bringing it when the agenda is called for is a supermajority of you guys saying yes, we can put that on the agenda today. What the two weeks does, it gives the members of the public the ability to research what is on the agenda and get all the documents, not just three days the way it happens now. So, the committee members and the councilmembers have an opportunity to research what was going on the agenda with the time given, in my opinion that's (inaudible). One of the excuses I heard was...from this member of the body was well, emergencies happen. I understand that. Don't violate the rule, do the proper thing. Ask the committee if they would like it presented on the agenda that day.

Committee Chair Yukimura: Your six minutes are up. Are you...can you summarize?

Mr. Abrew: I think that's really all I have to say is if a member of the public questions a rule, I don't think this body needs to ask the county attorney their advice. It's the seven members here showing the community the respect and the ethical conduct of you seven people sitting here to decide the community member's right, we're wrong, we can suspend this for a week, two weeks, let's move on. Because when a member of the body expresses interest or expresses a concern and all seven members just sit here la-de-da-de-da, you know, what do we as the public think of what's going on there? Is something being hid? Is something being not taken at advice? That's my only thought is there are ways to get things on the agenda without the administration coming six days before and trying to push something through and hide something that we cannot...the public cannot have enough time to really determine what it is. Thank you.

Committee Chair Yukimura: Okay, thank you very much. Anybody else wants to testify? Linda? Can you state your name?

LINDA HARMON: Hi, my name is Linda Harmon and I...I want to agree with Ken Taylor over the matter of allowing a public comment period. Where I'm from, a person wanting to comment on something that wasn't on the agenda had two minutes at the beginning of the session. And it allowed the public to address their own concerns with a public audience. And so, that's one of my concerns.

The other one is also related to Order of Business, Rule No. 9. When you go down to the council meeting, you usually give up your whole day because there's no official timetable as to when your topic is going to come up. On the other hand, if someone is there from out-of-town, someone having a flight to keep, the council seems to bend over backward to accommodate them by changing the order of the agenda or in another instance where say a department head can't get in to do his testimony, they defer until later in the agenda. So, anyway, it's really hard to calculate when you should be there for your testimony if this goes on. So I'm suggesting that people having time restraints should notify the council chair before the agenda is finalized, seven days before the said meeting so that people coming down can count on, you know, not having to spend the whole day. Thank you.

And I want to also back Ken Taylor's request that you'd let all of the backup material to an agenda item be attached to the agenda when you go online so that you can read it right there.

Committee Chair Yukimura: And that's already been approved by the council.

Ms. Harmon: Oh, good.

Committee Chair Yukimura: We are in the process of logistically figuring it out how to do it.

Ms. Harmon: Yeah.

Committee Chair Yukimura: But that is...has been authorized or ordered in terms of a council vote.

Ms. Harmon: So it will be on the rules.

Committee Chair Yukimura: Yes. Oh, we might be able to include it on the rules. I don't know. But it's already something that the council has approved.

Ms. Harmon: Yes, that's good. I think it should be added to the rules.

Committee Chair Yukimura: It was approval of a resolution introduced by Councilmember Bynum. I think we took it up on our second meeting of the new council.

Ms. Harmon: Okay, thank you.

Committee Chair Yukimura: Any questions of Ms. Harmon? Linda, I have one question. When you...in supporting the public comment period...

Ms. Harmon: Yes.

Committee Chair Yukimura: Is it two minutes to talk on any item not on the agenda or to talk about any item on the agenda?

Ms. Harmon: No, any item off the agenda.

Committee Chair Yukimura: Okay. So that's what was allowed in the jurisdiction you came from?

Ms. Harmon: Yes.

Committee Chair Yukimura: And where was that?

Ms. Harmon: Long Beach, California.

Committee Chair Yukimura: Okay. Now, I mean...you know...and do you support a 15-minute block so that it doesn't go on and on forever?

Ms. Harmon: Absolutely, yeah.

Committee Chair Yukimura: So even though there's more people who want to testify, that cuts it. It's first come, first served (inaudible).

Ms. Harmon: Right, right.

Committee Chair Yukimura: Yeah, I know you suggested you count how many people want to testify and you divide it up into 15 minutes, but I'm not sure.

Ms. Harmon: (Inaudible.)

Committee Chair Yukimura: I mean that can create many problems. I think it's better you have a list, you have two minutes per person, and you just...that's it.

Ms. Harmon: Right, well, yeah, where...in Long Beach we never had a problem with that, having too many speakers.

Committee Chair Yukimura: Well, I don't know what your budget was or how long your meetings went, but we have that consideration. I mean, so...

Ms. Harmon: Yeah.

Committee Chair Yukimura: So those are considerations and I was just thinking that it may be of use to have people speak for two minutes on agenda items so that even before certificates, so if they have to go somewhere, they come and they give their piece and they can go, instead of waiting forever to speak on the agenda item that they're waiting for.

Ms. Harmon: Yes...I think...I...

Committee Chair Yukimura: We're just looking at all kinds of ideas.

Ms. Harmon: Yeah, yeah, it's just that the...your...I think your comment is not...is...is forcefully heard until say all those letter...reporting, you know, have a chance to be put in one after another. I think there's maybe more...more...you know impact.

Committee Chair Yukimura: Well maybe, but we're having dozens of emails that don't even get on there, but they're on the same subject too. I mean there's just different ways for people to give input, and just because you come publicly doesn't mean we're giving less import to people who email. But...I mean presence is powerful, so I can see your point.

Ms. Harmon: Well, yes.

Committee Chair Yukimura: But we have to balance many other things in terms of making the meetings flow well and giving (inaudible).

Ms. Harmon: Yes, I understand. I just would hope that there would be more concern for the general public.

Committee Chair Yukimura: Okay, thank you.

Ms. Harmon: And...

Committee Chair Yukimura: I mean some people...some jurisdictions just say you speak at the beginning and once we start our meeting, we have to meet. So actually, we're giving a lot of concern for the general public by letting you speak on every item when the item comes up, okay. So, you know, it's a relative thing. In many ways Kaua'i is giving a lot of time to the public.

Ms. Harmon: Yes, yes, but it's over agenda matters and a lot of times the things that need to be said and...no public forum for them other than here. And if you're not on the agenda, you don't get to speak your mind.

Committee Chair Yukimura: Yeah, okay, thank you very much.

Ms. Harmon: You're welcome.

There being no one else wishing to testify, the meeting was called back to order.

Committee Chair Yukimura: All right. We'll proceed now to business R-2, discussion of potential/desired revisions to the Council Rules and the chair would refer us all to the document provided by council services staff. Mr. Morimoto has...took the discussion that we had and has put into wording some of the ideas that we discussed last time and I believe it follows...it follows the rules one, two, three, right? That's the order. So that in Rule 1, and let me say that the intention in going over this document is to say if it's ready for decision making which is going to be our next meeting so that if we want more research done between now and the next meeting, we can...or some alternative wording or we can just say okay, it's basically ready, which doesn't mean we can't have some further amendments to propose for the particular wording at our decision making, but it's like okay, we're getting close and it's enough, so we'll just move on.

Okay, so Rule No. 1, add a rule (g), which embodies what we talked about notices for regular, standing, special and executive session meetings shall be posted on the county's website. Right now the rule makes no reference to posting on the

website and it says, failure to post notices shall not invalidate the actions taken by the council or its committees if notice was given in accordance with Chapter 92, H.R.S., which requires physical posting at certain places. And this was to address, I think it was Councilmember Kawakami's concern that if there was a breakdown of our computer system or something and it didn't get on the web that it would invalidate any decisions we made at the meeting. Is there any discussion?

Ms. Nakamura: I'm comfortable with that language. Under Rule No. 1 (e), there's a section on executive sessions and I noticed that in the Honolulu rules that they list the provisions for holding the executive sessions. And I thought that was useful just to have it all in one place, and was wondering if we could follow that. In Honolulu it's on page 10, Rule 7. Would that be a problem?

Committee Chair Yukimura: Glad you mentioned that. No, I don't think so.

PETER MORIMOTO, Council Services Legal Analyst: (Inaudible.)

Committee Chair Yukimura: You need to take a mike.

Ms. Nakamura: Yeah, okay, or you can just sit here.

Committee Chair Yukimura: Yeah, so you can engage in conversation on the record. I think we can have staff sit at the table. And apologies to you, Councilmember Nakamura, because you raised that at the last meeting and we didn't really work on that. I think that sounds like a very feasible thing to do.

Mr. Morimoto: The language that you refer to comes almost verbatim from the Hawai'i Revised Statutes from Chapter 92's exceptions.

Committee Chair Yukimura: Well, I think...

Mr. Morimoto: So...I mean...

Committee Chair Yukimura: We can do it, right?

Mr. Morimoto: We can do it.

Committee Chair Yukimura: And I think one of the reasons we would want to do it is to help readers of the rules not have to go somewhere else to understand what's covered and what's excluded and so forth. So okay, let's work on that for the next session. Any more discussion on that Rule 1 suggestion?

Okay, if not, we're just going to...I'm not...we don't have to vote on it, but we'll just say that this is going to go forward to our decision making for next meeting. And we will also have ready the amendment you're asking for that would designate the exceptions and as our staff attorney has said, we'll follow the H.R.S. exceptions.

Ms. Nakamura: And one other item, I just noticed on (g) is adjournment.

Committee Chair Yukimura: Wait (g)...1(g)?

Ms. Nakamura: 1(g). So actually, this one should be 1(h).

Committee Chair Yukimura: Or we change (g), the present (g) to (h).

Ms. Nakamura: Well because the present (g) talks about adjourning meetings and we were going to add "by majority vote" or did I just write that in on my...maybe I wrote that in on my own.

Committee Chair Yukimura: Majority vote is set by Robert's Rules.

Ms. Nakamura: Okay.

Committee Chair Yukimura: Everything is done by majority vote...

Ms. Nakamura: Okay, by vote, okay.

Committee Chair Yukimura: ...unless you have...

Ms. Nakamura: So are we saying you want to replace (g) with this (g) or are you going to just add?

Committee Chair Yukimura: That's a good catch.

Mr. Morimoto: The current (g) would become (h). We'll just move it down one.

Ms. Nakamura: Okay, that's fine.

Committee Chair Yukimura: Okay. The current (g) becomes (h) and executive sessions...the instances for executive sessions would be delineated under (e), right?

Ms. Nakamura: If that's okay?

Mr. Morimoto: Yes, we can do that.

Committee Chair Yukimura: And exceptions...

Ms. Nakamura: Okay, we can go on to 2 then.

Committee Chair Yukimura: Yeah, exceptions for execu...or exceptions for regular meetings or instances of executive sessions to be delineated.

Okay, we'll move on to Rule 2. So, basically the deletions are of the word physical and we did discuss, but I don't think Mr. Morimoto got to check with KIUC because the removal of physical led to discussions about being present through teleconference or videoconference. Councilmember Kawakami had talked about under KIUC rules being able to do that. So we were going to look at that and we discussed it yesterday. So that's for the next time. Any discussion about Rule 2?

Ms. Nakamura: Okay. Also, it includes this up above under 1(f), but...to hold an emergency meeting I think we also need two-thirds vote of the council. So just so that it's all under one place, could we put...you see under (f)...Rule 1(f)(2), two-thirds of all members agree, excuse me, that an emergency exists.

Committee Chair Yukimura: Right.

Ms. Nakamura: So actually, here we're listing the cases in which you need two-thirds vote. So should we also include there to be consistent with the rule up above?

Committee Chair Yukimura: Yeah, I don't...do you have any comment? Okay. So that would be one, two, three...that's funny. The council...it says Rule 2(a), the council shall...a vote of at least two-thirds of the council shall be required for the following: (1), (2), (3), and then it talks about in the absence of a physical quorum, that perhaps should be a (b) with (a) defining the quorum and (b) saying what happens in the absence of the quorum, and then everything else changes.

Ms. Nakamura: Yeah, I think that's what it is. A...subsection (a) of Rule 2 should actually be the council quorum and then like you said.

Committee Chair Yukimura: You could...yeah, you could even divide it.

Ms. Nakamura: (4) could be (b). (Inaudible) you have (4) could be (b) and that could be...

Committee Chair Yukimura: Right, because that's not an instance of a two-thirds vote.

Ms. Nakamura: Yeah, yeah.

Mr. Morimoto: (Inaudible.)

Ms. Nakamura: Yeah.

Committee Chair Yukimura: I mean you could even separate (a) into two pieces: what's required for a majority and when a two-thir...extraordinary majority is required, and then what happens when a quorum is...

Ms. Nakamura: Lack of quorum.

Committee Chair Yukimura: Yeah.

Ms. Nakamura: I think that's how some of the other rules are written. One is council quorum and one is council lack of quorum.

Committee Chair Yukimura: Right.

Mr. Morimoto: So then (b) would become (c)?

Committee Chair Yukimura: That's right, everything would move down. Any...

Ms. Nakamura: Also, what about to authorize employment of special counsel to represent the council? Does that require a two-thirds majority?

Committee Chair Yukimura: Ricky is saying yes.

Ms. Nakamura: So can we also list that as...to be consistent again?

Committee Chair Yukimura: So we'll add in emergency meeting...actually...and to employ special counsel and anything else that we find requires a two-thirds vote.

Ms. Nakamura: Yeah, as we go along.

Committee Chair Yukimura: Very good. Okay, and then we're going to have an additional section at the end about possibly about attendance at the meetings through teleconference and videoconference. Anything else on Rule 2?

Ms. Nakamura: What is our thinking about that? That we should look into it and see if...

Committee Chair Yukimura: Well, you know...yeah, we're starting with some...a group that's already doing it, so we get to look at their rules and see how they're structuring it and then we bring it forth to see if that's something we want to do or we prefer not to do.

Ms. Nakamura: Okay, so that would be a future discussion.

Committee Chair Yukimura: All right, moving on. Rule No. 3. The proposal here, as we discussed, was to add a duty of the presiding officer a la Hawai'i County Council rule about the duty of the chair or the presiding officer to receive all reports, communications, bills, resolutions, and to make proper referrals of these matters to the council or the appropriate chair persons. We discussed the issue of confidential communications. That was a concern of Councilmember Kawakami and I think you were going to check on the procedure of other counties? So you will still do that? Okay. Other questions or comments about this paragraph and then we'll go to another?

Ms. Nakamura: Let's see.

Committee Chair Yukimura: Any comments? Okay, if not, the other proposal for Rule 3, following Maui's County Council rule is this idea of a chair's meeting that do not require council...of issues that don't require council approval because then it would have to be at a regular posted meeting. But it allows discussion of internal matters and input to the chair and it's sort of aligned with the present council chair's style of leadership which is sharing a lot of, you know, his decision making and taking input. And I don't think it's anything mandatory. But it does give notice of a potential venue or methodology for helping to facilitate the flow of council business as between the chair and councilmembers. Any discussion?

Ms. Nakamura: That's fine. You know I had this written a while back, but also under this, is it the role of the chair to appoint all standing committees and designate voting and nonvoting members or is that...we just do it as a body here? Okay, I think that...that must have been from another county's.

Committee Chair Yukimura: No, it's not in our rules right now, is it?

Ms. Nakamura: Right.

Mr. Morimoto: (Inaudible.)

Ms. Nakamura: We do it...it's adopted by the council by resolution. Okay, thank you.

(Inaudible.)

Committee Chair Yukimura: And at the inaugural meeting we adopted a resolution that came out of our organizing meeting basically.

Ms. Nakamura: Okay.

Committee Chair Yukimura: But that required a majority vote to pass, so it required majority consent.

Ms. Nakamura: Okay.

Committee Chair Yukimura: Yeah.

Ms. Nakamura: There is nothing in our rules that talks about the role of the vice chair and I think some of the other counties have a description. So Honolulu, page 7, there's a list of the duties of the vice chair and that's something...just wondering if we should take a look at that and see if it's applicable here?

Committee Chair Yukimura: I think that's a good idea, anything that clarifies.

Ms. Nakamura: Or even just to say, you know, I think in some instances it's just to assist the chair, you know, in a very general way. But some...the Honolulu one is a little more specific.

Committee Chair Yukimura: Okay, I think that's a good idea, so staff will add to that. Anything else on Rule 3? If not, can we move on?

Ms. Nakamura: The county clerk is also included in Rule 3.

Committee Chair Yukimura: Yes, it is.

Ms. Nakamura: Okay. This is more, I think, in line with what the charter says, but it...and so it might be a little redundant, but I like seeing it in one place again and that is the county clerk shall be appointed by and serve at the pleasure of the council under the direct supervision of the chair. That is under the Big Island Rule 28.

Committee Chair Yukimura: Okay, now...nothing in here is talking about how these officers are selected. You know, I don't know if there's another place for that. Well, but it...the overall title is officers and their duties, so it fits that general rubric.

Ms. Nakamura: I think it's included in the beginning where it...talk about...when we first meet and what we do.

Committee Chair Yukimura: Oh, so number 4, it's (a)(4), the chairperson shall assume the chair of the presiding officer immediately after being elected and the council shall then appoint the clerk, adopt rules of the council, and appoint the chair and vice chair and members of several standing committees by resolution.

Ms. Nakamura: Okay, so that answers that.

Committee Chair Yukimura: Is that sufficient in your mind?

Ms. Nakamura: That's fine.

Committee Chair Yukimura: Okay. It's under Meetings, Recommended Procedure for Initial Convening of the Council.

Ms. Nakamura: That's fine, okay.

Committee Chair Yukimura: Okay.

Ms. Nakamura: That's fine.

Committee Chair Yukimura: All right. Are we done with Rule 3? Okay, then let's go on to...well we...we then moved to Rule 10.

Ms. Nakamura: Oh, I'm sorry. I'm not done.

Committee Chair Yukimura: Oh yeah, go ahead.

Ms. Nakamura: There were additional duties of the county clerk listed on Maui's and Big Island's rules. On Maui, page 7...I'm sorry, you know I think I just listed the page number, but I didn't outline what made it different. Anyway, if you could just take a look at that and see...and Big Island, page 44.

Committee Chair Yukimura: So (7) under our rules, (c) county clerk, (7) kind of looks like a catchall to serve in all matters as clerk of the council and to perform all clerical duties and office...duties and offices pertaining to such position. We should look at that word; it doesn't make sense. Offices...are you looking at...it's our present rules, Rule 3(c)(7), pertaining to such position as the council shall from time to time direct, and maybe that's the chair, as well as other duties shall by law or these rules, or rules hereafter adopted, be assigned to the clerk, or as such properly pertain to such position. But anyway, you can look at all of that.

Ms. Nakamura: Yeah, okay. There's also no provision in our rules on the role of the deputy county clerk.

Committee Chair Yukimura: So same...just like vice chair, let's define that.

Ms. Nakamura: And I thought the one on the Big Island looked good. It's pretty general, but it outlines what the role is, page 45, I think it's Rule 29.

Committee Chair Yukimura: Okay, thank you. Any more on Rule 3?

Ms. Nakamura: That's it.

Committee Chair Yukimura: Okay, then we go to Rule 10 because we didn't...

Ms. Nakamura: We skipped.

Committee Chair Yukimura: Yeah, we skipped to Rule 10 and that's been a subject of real interest. So we can go back to the rules in seriatim if you like. But let's look now at Rule 10, which has been drafted by our legal counsel and it reads...the amended amendment reads as follows: "All bills and resolutions must be initialed by the Council Chair or, in the Chair's absence, the Vice Chair in order to be placed on the agenda; provided that the bills and resolutions shall be placed on the agenda within two scheduled meetings of the date of the written request by a Councilmember to the Council Chair." I thought it was supposed to be three.

Mr. Morimoto: Three?

Committee Chair Yukimura: Yeah, we discussed it yesterday.

Mr. Morimoto: (Inaudible.)

Committee Chair Yukimura: Okay, so a three which means a six-week period basically. Now this is to be compared with the idea suggested by Mr. Taylor, which is provided that it be on the agenda in a timely fashion no later than 120 days, which is a period of four months, right? 30 days a month times 4, so 120 days, which is four months, yeah, a quarter, no, is that a quarter? No, it's a third of a year. Yeah. So, but it's the same principle that there be a time deadline that would counteract an arbitrary action of the chair to not put the item on the agenda. And I think there was one other suggestion, but they all had the same goal. So...oh, the other one was Tim Bynum's which was saying that it shall not be arbitrar...the discretion of the chair shall not be arbitrarily...let's look at that. The chair or his designee shall not use this rule to restrict—and I would say put indefinitely there—to restrict indefinitely the introduction of any bill or resolution introduced by any member. Tim is the most vague and actually the word introduced is to be wondered about because what is...at what point does a bill get introduced? Not when it's requested to be put on the agenda. It gets introduced when it gets to the agenda, I believe. So that word is not...introduced is a little...is a little confusing if we're going to go with this version. I see a hand...

Ms. Nakamura: Here's...

Committee Chair Yukimura: Oh yes, go ahead, please.

Ms. Nakamura: You can go, go ahead.

Committee Chair Yukimura: Okay, then we'll take testimony from...I see Mr. Taylor wants to give some input and because there's not many people...

There being no objection, the rules were suspended.

Mr. Taylor: Chair and committee, a quick one. In my recommendation for timely manner or 120 days, I wrestled with that after listening to the discussion on the floor of the full council some time back and there was a lot of concern that there wasn't...that they were not going to tie the hands of the chair to set the agenda.

Committee Chair Yukimura: Right, right.

Mr. Taylor: And I felt that if we make it too tight that some people would vote...oppose any change because they would feel that it was restricting the chair too much. And that's why I tried to open it up a little bit by saying timely manner not to exceed.

Committee Chair Yukimura: Right, right.

Mr. Taylor: And I think and I hope that you'll understand where I'm coming from on that because I'm looking at it for a full vote of the council. Thank you.

Committee Chair Yukimura: Thank you, Mr. Taylor, and that's why.

There being no one else wishing to speak, the meeting was called back to order, and proceeded as follows:

Committee Chair Yukimura: And that's why I directed our staff attorney to say three meetings rather than two because I felt like a period of four weeks was a little bit restrictive on the chair's needs to sometimes bring up other issues, ask for more research, things like that. So, we have Mr. Bynum's proposal, which is...which has no definite time frame imposed, and then the idea of three meetings have to be done...that it has to be put on the agenda within three meetings, which is approximately a six-week period, and your suggestion which is 120 days or a four-month period, and we could set it anywhere in that. But it's trying to balance those two things, the need for the chair to exercise some discretion, allow for orderly...an agenda that's not too full and then at the same time to allow a member to make sure at some point that his matter gets on the agenda for consideration by the body.

Ms. Nakamura: So my concern is that based on Rule...what is the rule that says that you have two weeks to put something on the agenda once it's submitted?

Committee Chair Yukimura: Oh, it's a requirement that says you can't run into the office one hour before the agenda is going to be printed.

Ms. Nakamura: Right, right.

Committee Chair Yukimura: So it's basically saying...

Ms. Nakamura: Two weeks, right, before?

Committee Chair Yukimura: Right.

Ms. Nakamura: Yeah, to be considered.

Committee Chair Yukimura: Well, two Fridays.

Ms. Nakamura: So do you want to an...

Committee Chair Yukimura: Where is that?

Ms. Nakamura: Jade?

JADE TANIGAWA, Council Services Review Officer: It's just our internal...

Committee Chair Yukimura: No, but I think it's in...

Ms. Nakamura: It's in the rules also, but it's two Fridays.

Committee Chair Yukimura: Yeah, but where is that rule? Here it is, Rule 15(b).

Ms. Nakamura: Okay.

Committee Chair Yukimura: All communications to be placed on the agenda must be initialed by the chair, which is a repeat of Rule 10...

Ms. Nakamura: Right.

Committee Chair Yukimura: ...and received by the council or the office of the county clerk before 4:30 p.m. on the Friday two weeks preceding the day of the regular committee meeting.

Ms. Nakamura: Right. So basically you're giving, you know, this is six weeks less two weeks. So it's really four weeks of discretion that you're giving the chair under this three scheduled meeting proposal. I would...I think I would like something a little bit...to give a little bit...

Committee Chair Yukimura: Longer?

Ms. Nakamura: ...longer...some more discretion, as Mr. Taylor suggested.

Committee Chair Yukimura: Yeah.

Ms. Nakamura: So...

Committee Chair Yukimura: Well, we could say within 60 or 100 days.

Ms. Nakamura: Yeah, I think that would...just...we know our, you know, this chair will...

Committee Chair Yukimura: 60 days is two months from the date of a request.

Mr. Morimoto: (Inaudible.)

Committee Chair Yukimura: Oh, okay, you can just speak. The...our legal counsel is pointing out that Rule 10 is regarding bills and resolutions and Rule 15 is regarding communications. But oftentimes, bills and resolutions can be included in communications. And...yeah, I mean whoever wants to introduce a bill, if they know of this period, it actually is not going to be really relevant because they're not going, the two weeks prior, because they're not going to be aiming for...well, they might be aiming and I guess they may have chance. But if they're not aiming for it,...they're...it's going to be from whenever it's dated that it's time-stamped with the...and it gets to the chair.

Ms. Nakamura: Okay, okay.

Committee Chair Yukimura: So from the time a request is formally made, which is time stamped as a written request to the chair, you know from Councilmember Nakamura or Bynum or me or whatever, then within...then that starts the clock and what do we want to say? 60? 100? 100 days is three months. 60 days is two months. 100 days is three months plus 10 days.

Ms. Nakamura: Well, maybe what we could do is use like the budget...like for example you submit something before the budget period and then during the budget period it's a pretty intense, from what I understand, period where it might be hard to get it on the agenda, you know. So you want to have...give the chair some flexibility.

Committee Chair Yukimura: Well, the budget...okay

Ms. Nakamura: Yeah, so that might be...it's...

Committee Chair Yukimura: Well, the budget doesn't get on the agenda until...I mean...

Ms. Nakamura: But the period to, you know in preparation for the budget that, you know, that's kind of a long stretch...at least a couple of months.

Committee Chair Yukimura: That's true, okay, yeah.

Ms. Nakamura: So I think I would like to...I'm just thinking worst case scenario. You're introducing something, you want it to appear, but that's a big stretch of time that you want to give some discretion to the chair, that's like two months worth of pretty solid work from what I understand.

Committee Chair Yukimura: Yeah. It's only if there's an emergency or a sense of urgency on the part of the introducer of the bill...

Ms. Nakamura: Yes.

Committee Chair Yukimura: ...that, you know, how long do they have to wait if there's an arbitrary chair, okay...

Ms. Nakamura: Right.

Committee Chair Yukimura: ...because otherwise, there'll be a chair that's trying to facilitate your needs too.

Ms. Nakamura: Right, that's right, right. So I think I would be...

Committee Chair Yukimura: So, maybe 90 days.

Ms. Nakamura: Yeah, I think that...I would feel comfortable with...

Committee Chair Yukimura: Three months, three, let's do it that...

Ms. Nakamura: Three or four.

Committee Chair Yukimura: So within 90 days. And of course getting on the agenda still means another 6 days more before it actually gets acted on. Okay. Any further discussion on that? All right, if not thank you very much.

What we want to do now is maybe go back to this list that we started with and it's really the backside of our or, sorry, the second page of the list that we didn't cover.

Ms. Nakamura: Okay.

Committee Chair Yukimura: And so let's see how much time do we have. It's 10 of 3 o'clock and so we've...we have been going an hour and a half, 1:30, 2:30...

Ms. Nakamura: I left off at...oh.

Committee Chair Yukimura: Can we go till 3:30 p.m.? Okay, then let's aim for 3:30 p.m. and see how far we can go.

Ms. Nakamura: I left off at number 8.

Committee Chair Yukimura: Journal?

Ms. Nakamura: Did we do that?

Committee Chair Yukimura: We skipped over it.

Ms. Nakamura: Okay.

Committee Chair Yukimura: And what was your response you got from the county clerk about journal?

Mr. Morimoto: (Inaudible) the minutes (inaudible).

Committee Chair Yukimura: Speak loud.

Mr. Morimoto: The minutes constitute the journal.

Committee Chair Yukimura: Yeah, okay, I have some issue with the minutes, but...

Ms. Nakamura: 3(c)(4).

Committee Chair Yukimura: Okay, so he's saying that the...yeah, the minutes constitute the journal and 3(c)(4), to note all questions of order with the decisions thereon, collect the same together and append them to the journal.

Ms. Nakamura: So you're saying journal is minutes...the minutes?

Committee Chair Yukimura: So it is the duty of the county clerk to note all questions of order within the decision thereon, collect the same together and append them to the journal. So, I guess, wherever there is a matter for disposition, a record of what was disposed of and how it was disposed of and then appending it to the journal.

Ms. Nakamura: Okay.

Committee Chair Yukimura: We could, maybe, modernize that.

Ms. Nakamura: We don't even know what it means.

Committee Chair Yukimura: Yeah, right. What is...

Ms. Nakamura: How could we modernize it? Can we...is that something we could look into? Okay.

Committee Chair Yukimura: Well, why don't we look at other counties and see how they treat...if they mention journal at all or if they mention minutes.

Ms. Nakamura: I like that concept, okay, modernize, okay, good term.

Committee Chair Yukimura: All right. Can we go to...we didn't do advisory committees either.

Ms. Nakamura: No, we didn't.

Committee Chair Yukimura: Let's go back at the end. Let's start with Rule 11. I don't even know what advisory committees meant, although I think I put it in there.

Ms. Nakamura: Where are we at?

Committee Chair Yukimura: Ideas for Rule Change No. 11, top item on the second page. Okay, so Rule 6(f) and I don't know if this came from Walter Lewis because this sheet of two pages was an attempt to capture as agenda items all the suggestions that had come as of January 27, when we compiled the list. And I think there was a suggestion to make Rule 6(f) to allow the introducer of the bill to speak as long he wishes. And right now 6(f) says, no member may speak longer than five minutes, nor may any member speak for more than twice on the same question without leave of the Presiding Officer, subject to appeal of the body, unless the member is maker of the motion or sponsor of the matter pending, in which case the member may speak in reply, but not until every member choosing to speak has spoken. And I believe Robert's Rules allows the maker of the motion...to speak first. When a motion to approve a bill that has been introduced by a member is made and seconded, then the introducer of the motion or the maker of the proposal gets to speak first and I guess no longer than five minutes.

Ms. Nakamura: Unless the member is the maker of the motion or sponsor of the matter pending.

Committee Chair Yukimura: In which case the member may speak in reply.

Ms. Nakamura: Okay.

Committee Chair Yukimura: That is confusing, though. I think it's saying everybody has only two cracks at it unless the presiding officer gives you more time, but the maker of the motion has the...countless numbers to speak in reply.

Ms. Nakamura: Why don't we...yeah, we could just put "unless the maker is the maker of the motion or sponsor of the matter pending." And then you could have another sentence dealing with the mem...you know, the member may

also speak in reply to questions. But...the whole thing is you want to be able to give the maker of the motion or sponsor of the matter more time or not restrict the time?

Committee Chair Yukimura: You don't want to restrict him to two times. He has the right to speak more than, I think more than two times.

Ms. Nakamura: Yeah, the question is do you want to limit the maker of the motion's time to speak?

Committee Chair Yukimura: The number of times to speak or the five minutes? No member may speak longer than five minutes, nor may a member speak more than twice on the same question, unless you have leave of the Presiding Officer, unless the member's the maker of the motion or the sponsor of the matter pending, in which case the member may speak in reply, but not until every member choosing to speak has spoken. That's not clear.

Ms. Nakamura: Yeah, that isn't. Is it a problem where makers of the motion go on too long?

Mr. Morimoto: You're asking staff?

Committee Chair Yukimura: Well, I can tell you that at this last meeting when Councilmember Bynum was speaking on the Po'ipū Beach...

Ms. Nakamura: Yes.

Committee Chair Yukimura: Yeah, he had told the Chair that he was going to speak for 10 minutes on this. Now, I don't know where he got the 10 minutes from.

Ms. Nakamura: The five times 2.

Committee Chair Yukimura: Oh, okay, but I think he was thinking of one continuous. But anyway, I think the Chair, and this is all, you know, really trying to read the minds of people, was concerned at the length of the...Councilmember Bynum's speaking, which he didn't address directly, but he chose to say that that councilmember was not speaking on the matter.

Ms. Nakamura: Right.

Committee Chair Yukimura: Which I disagreed with him because I think he was speaking on the matter. But if he had spoken too long, you know, that would have been the issue

Ms. Nakamura: That's a different issue. Okay. Well then, maybe we should say that no member may speak for five minutes...

Committee Chair Yukimura: Longer than five minutes.

Ms. Nakamura: Yeah, but...nor may a member speak more than twice on the same question. Is it without leave means without permission?

Committee Chair Yukimura: Yeah, without the chair's recognizing and saying.

Ms. Nakamura: Yeah, yeah. Subject to appeal of the body and maybe we can just end it there, that's number one, that's the first thought, we all agree with, that's okay.

Committee Chair Yukimura: Okay.

Ms. Nakamura: Then the next part is now if you're a person who's making the motion or you're sponsoring the matter, then let's have a time limit too on that. So, the maker...we could start off with the maker of the motion or the sponsor of the matter pending may speak no longer than, just to be consistent with the language, no longer than...let's say 15 minutes or you know.

Committee Chair Yukimura: Well, it may be that this last part was actually dealing with speaking more than twice.

Ms. Nakamura: This last part.

Committee Chair Yukimura: Yeah.

Ms. Nakamura: So I think that's a third issue. So first of all...

Committee Chair Yukimura: Well, so then you're saying no member may speak longer than five minutes that includes the maker...

Ms. Nakamura: No.

Committee Chair Yukimura: Well, then you have to say something like provided that.

Ms. Nakamura: Okay, so we can say yeah, provided that...

Committee Chair Yukimura: The member is the maker of the motion, in which case he can speak for 10 minutes.

Ms. Nakamura: There...yeah.

Committee Chair Yukimura: Okay.

Ms. Nakamura: Yeah.

Committee Chair Yukimura: And more than twice if it's in reply...

Ms. Nakamura: Ten minutes.

Committee Chair Yukimura: Or unless the member is...you can use unless...the member is the maker of the motion, in which case he can, he or she—how do we do that—can speak for 10 minutes...for no longer than 10 minutes?

Ms. Nakamura: If you want to...yeah, if you want to be consistent with the first sentence.

Committee Chair Yukimura: Okay. Now, okay, I'm just thinking there are times where somebody has a whole PowerPoint presentation.

Ms. Nakamura: Yeah, that's what I was thinking, no longer than, you know, 15 minutes or 15 or 20. Even in that case, you know, 15 or 20 minutes.

Committee Chair Yukimura: Then we should just put it here.

Ms. Nakamura: That's why 10 minutes might be a little short if it's a complicated matter.

Committee Chair Yukimura: And you have a whole PowerPoint.

Ms. Nakamura: But they shouldn't have an hour to talk is what we're saying. We should have...they should concisely, you know, do it in 20 minutes.

Committee Chair Yukimura: Okay.

Ms. Nakamura: Because people are just not listening at that point.

Committee Chair Yukimura: And...

Ms. Nakamura: And.

Committee Chair Yukimura: He or she may speak more than twice, but not until every member choosing to speak has spoken?

Ms. Nakamura: Well, what about this...if they're going to do the PowerPoint presentation, they explain it, you know, let's just say 20 minutes and not this more than twice. And then that member can also reply to questions. That's the intent, right? You want to have that dialogue among the members.

Committee Chair Yukimura: Okay.

Ms. Nakamura: So...

Committee Chair Yukimura: And he or she may reply

Ms. Nakamura: Yeah, he or she, yeah.

Committee Chair Yukimura: May reply to questions.

Ms. Nakamura: May reply to questions.

Committee Chair Yukimura: This is considered beyond the 20 minutes, right?

Ms. Nakamura: Of members beyond the 20 minutes, yes.

Committee Chair Yukimura: Okay, are we done?

Ms. Nakamura: That works for me.

Committee Chair Yukimura: All right, okay. So let's have that prepared for our decision making.

Ms. Nakamura: Did you get it Morimoto?

Mr. Morimoto: (Inaudible.) So the idea is to allow the maker of the motion to speak for...

Ms. Nakamura: No longer than...

Mr. Morimoto: ...up to 20 minutes.

Ms. Nakamura: Yeah, up to 20 minutes, yeah.

Mr. Morimoto: And...

Committee Chair Yukimura: And beyond that he or she may reply to questions.

Mr. Morimoto: Let me try to draft something.

Ms. Nakamura: Okay, good.

Committee Chair Yukimura: Good. Okay, so that's done with, item No. 11, Ideas for Rule Changes. Okay.

Rule 10, getting bills or items on the agenda, we did that.

Consent Calendar. Peter has pointed out that Robert's Rules covers a consent calendar and that there are numerous models of rules for consent calendar process. So I asked him to come up with a couple of the be...what he, in his judgment, he thinks is the best wording. So, if you can do that?

Mr. Morimoto: (Inaudible.)

Committee Chair Yukimura: By next meeting, but I think we had seven days before next meeting because we wanted to have them all available in writing. Okay, so if we can leave that in his work right now.

Ms. Nakamura: Follow-up, okay.

Committee Chair Yukimura: Okay, public speaking time, 15 minutes.

Ms. Nakamura: I wanted to find out...oh, go ahead.

Committee Chair Yukimura: If you want to speak on that, fine.

Ms. Nakamura: I wanted find out, you know, the example was brought up about Long Beach, in other counties, you know, how do they do this. You know, do other counties in Hawai'i do this and how do they set it up and...

Committee Chair Yukimura: You're talking about non-agenda items.

Ms. Nakamura: Yes. I'm talking about non-agenda...and you know, the other point that was brought up that made a lot of sense, the people who want to testify but aren't on the agenda, so maybe they can use that time to say you know, I gotta get to work, but I want to testify, so can I use the...

Committee Chair Yukimura: On agenda items.

Ms. Nakamura: On an agenda item, but you know what, I can only be here for the first 15 minutes. I want to address this and take...and leave.

Committee Chair Yukimura: Well, you know.

Ms. Nakamura: So it should be a combina...to me, you know, we want to allow for maybe I don't know (inaudible).

Committee Chair Yukimura: I would prefer to allow only agenda items because I disagree that there's no other public forums. You can put an hour long thing on Hō'ike if you want to, and there's open mikes elsewhere and there's letters to the editor, and you know. So I'm not sure we should allow for...and if you want to talk to a councilmember to get the item on the agenda that is of interest to the council, you can get one councilmember to put it on the agenda too. So, I would rather stay focused on the agenda items and use the front time for those people who cannot stay for the whole meeting but want to say something. We still allow people and some counties don't do that. In Maui and Honolulu, you speak at the beginning of the agenda on any of the agenda items and that's it.

Ms. Nakamura: Oh.

Committee Chair Yukimura: And then they go into meeting and you don't get to speak.

Ms. Nakamura: Oh, during the meeting.

Committee Chair Yukimura: Yeah.

Ms. Nakamura: I see.

Committee Chair Yukimura: So we could still keep the you can speak, but if you have someplace to go, you come early and you speak and you leave. And...okay, further discussion and then I'll let Mr. Taylor speak too. But we can also see how other people do it. It's just that we have business to do and we have the overtime considerations and all of that.

Ms. Nakamura: Yeah.

Committee Chair Yukimura: So, I don't know if we should just open it up to anything. Any discussion on it before I...anything else? Ken, would you like to say something?

There being no objection, the rules were suspended.

Mr. Taylor: Chair and members of the committee, my name is Ken Taylor. Where I come from, Santa Barbara County, we have the county government and we have seven individual cities. Each and every one of those agendas, the county and the seven cities, have a public comment period. You say that there's other venues and there's no question about that. But reality is this is the people's government and they should have the opportunity to raise issues of concern to the council and it's not only where we all come from, but it...you can go on almost any website for any community all over the country and find more often than not a public comment period. And you say you have a lot of things to get

tended to and I understand that, but we're talking about a total of 15 minutes out of the agenda and when you...if you move forward with putting the consent agenda in place, you can pick up several hours on many of the agendas by having that.

Committee Chair Yukimura: I doubt it.

Mr. Taylor: Well, it's possible. I mean unless...where I come from you may have 20, 30 items on the consent agenda. There may be one or two of those items that are pulled off the agenda for discussion, and the rest of it is disposed of with one vote and we've sat here at meetings on occasion where one item after another was read and approved with no discussion. And so, I think it's imperative to go to the consent agenda, but the time saved there will allow for the 15 minutes and then some. Thank you.

Committee Chair Yukimura: Okay, thank you. Any questions of Mr. Taylor.

There being no one else wishing to testify on this matter, the meeting was called back to order, and proceeded as follows:

Committee Chair Yukimura: Okay, what is the pleasure of the committee?

Ms. Nakamura: I kind of wanted to get more information on how some of the other counties do this and I'm open to the alternatives. I think that the speaking time is important for the working...for the person who has to, you know, just has time to...who wants to give testimony but can't stay the whole day.

Committee Chair Yukimura: On the agenda item.

Ms. Nakamura: On the agenda item. I mean that would be to me a priority, and if there's time available, then, you know, but I think some lim...the time limits, whether it's two or three minutes, is important to have, and if for example there's an agenda, you know, there's 15 minutes and you got three people speaking on something that's on the agenda, that should be the priority. And so there might be maybe six minutes left for two people to talk. And so it would just be a first come, first served basis, but if you're talking on the item on the agenda, that should be a first priority.

Committee Chair Yukimura: I can see where we might have more people who want to speak on an agenda item at the beginning of the meeting beyond 15 minutes too on some of the big subjects.

Ms. Nakamura: Yeah, that's true.

Committee Chair Yukimura: So we might think about that, but I like the prioritization idea.

Ms. Nakamura: And for example, if there's nobody here to talk about an agenda item, then that...maybe that can be used as the public's free open comment.

Committee Chair Yukimura: Right, any other discussion?

Ms. Nakamura: The other thing too is Honolulu and Maui, you said, does it that way, public comments up front and that seems to work?

Committee Chair Yukimura: Well, it's been in operation for a while. Whether people like it or not is not...I don't know, yeah. So, why don't we hold this...because the next item, certificates and other recognitions is going to be...there's a dynamic with the first 15 minutes and the certificates because they both come up at the beginning of council meetings. Why don't we talk a little bit about this and then finalize what we want to charge our...I mean what directions we want to give to our staff to write up for 14 and 15 because they relate to each other. Is that okay?

So, in light of our discussion on 14, let's move to 15, which is certificates and other recognition and there was a suggestion that we limit either the overall time or the number of certificates that we do and this is a particular problem during election time.

Ms. Nakamura: Oh, okay.

Committee Chair Yukimura: But...and so there's that suggestion and then there's the other suggestion that we post those certificates on the agenda with some estimated time so that people can judge when to come to the meeting. Now, see part of this desire to know what the timeframe is might be obviated by having a 15-minute comment time even before certificates so that people can come at 9 o'clock and give their testimony and leave and then do certificates at 9:15 a.m. theoretically, right? Because then they don't have to figure out when their item is coming up and they can give their testimony and leave. So...and I think it'll be easier to limit time than subject...well...

Ms. Nakamura: Or you could do certificates first because we don't always have them and then do public speaking.

Committee Chair Yukimura: But the certificates are indefinite in how long they go.

Ms. Nakamura: I see, I see.

Committee Chair Yukimura: They can go for...one certificate can go for an hour when you have a team because of the process that we've done where two-by-two team members come up and give their most memorable moment.

Ms. Nakamura: Oh, okay, I haven't experienced that yet.

Committee Chair Yukimura: And it's a delightful process...

Ms. Nakamura: Okay.

Committee Chair Yukimura: But it's extremely time consuming and if you have several teams coming up at the same morning, it can take up at least half the morning.

Ms. Nakamura: Wow.

Committee Chair Yukimura: Am I wrong? Staff, you guys are more familiar.

EDDIE TOPENIO, Deputy County Clerk: We have instance where they allow...

Committee Chair Yukimura: Ernie (sic), you should take the mike.

Mr. Topenio: There's instance where they allow every member of the team to speak, two by two normally. So if there's a big team, then...football team is a great example.

Ms. Nakamura: Individually speak?

Committee Chair Yukimura: Yes.

Mr. Topenio: So each child and whatnot, so.

Committee Chair Yukimura: And, you know, we could as a council exerting self-discipline decide not to do that methodology.

Ms. Nakamura: Yes, what do you...

Committee Chair Yukimura: And we'd have to check with other members. I mean there's a delightful aspect to it and everybody's thrilled to see their kid on TV, but it does take a lot of time. So...

Mr. Topenio: Councilmember, I think one of the last, longest one was almost an hour and a half, I think I remember.

Committee Chair Yukimura: Thank you for that detail.

Ms. Nakamura: Oh, wow, okay.

Committee Chair Yukimura: And that's why members of the public like, who are here for an item on the agenda, they kind of just throw up their hands when they...

Ms. Nakamura: Right and I agree. I think this limiting or at least notifying or putting an estimated time for these certificates, especially for the smaller one, the one person or one organization.

Committee Chair Yukimura: It's actually more for the longer ones you want to put some limit.

Ms. Nakamura: Yeah, no, no, yeah, so.

Committee Chair Yukimura: Yeah, so you can see there's a lot of parameters to think about.

Ms. Nakamura: Yes, yes.

Committee Chair Yukimura: And that's why the idea of allowing people to testify when they come at 9 o'clock might be the better idea because if...especially if you limit to 15 minutes because then everybody...it won't take a lot of time, but it will allow them to give their testimony and leave.

Ms. Nakamura: Do you think we should...I'm just throwing this out. Do you think we should change it to the Honolulu model where you just get all the public testimony up front?

Committee Chair Yukimura: The public will not like that over here because they're so used to being able to talk on each topic, right? Okay.

Ms. Nakamura: Okay, okay.

Committee Chair Yukimura: So, I mean those are just the balancing things. Let's be honest about it.

Ms. Nakamura: Okay.

Committee Chair Yukimura: And the public gets to be more like a member of the council, but that does have its problems.

Ms. Nakamura: Yeah, I think it should be posted on the agenda for 15(b). My feeling is that...

Committee Chair Yukimura: The certificates?

Ms. Nakamura: I mean just that there will be one. It's just putting people on notice that it's going to...there's going to be something before this agenda starts. Right now, it's not on the agenda is what I'm understanding.

Committee Chair Yukimura: Yeah and there's this other issue of things that come last minute as certificates. They don't follow the rule of the two Fridays before. They can come in the night before and then get put on the agenda because they're having a lū'au tomorrow or this week, and things like that, right? Am I correct on this, staff?

Ms. Nakamura: Isn't that hard for staff then to have to...

Committee Chair Yukimura: It's very hard. It's hard for staff...

Ms. Nakamura: Then why don't we make certificates follow the process? We're allowing that to happen.

Committee Chair Yukimura: That's correct. We're doing...I'm just explaining our practice.

Ms. Nakamura: Yeah, yeah, the process.

Committee Chair Yukimura: We can propose it and see if there are things that other people have to consider that we haven't looked at. So yes, we can propose that. Okay, so that means one of the rules would be that Rule 11...no, Rule 15 applies and technically it does, it's a communication. No, but it's a verbal communication. Certificates are often a verbal.

Ms. Nakamura: Including certificates. To me it's consideration to the public, people who come here, they need to schedule their day, and knowing that we're going to do one or two certificates will...it's just consideration to the public.

Committee Chair Yukimura: And people will rearrange their lives and expectations around rules if the rules are clear.

Ms. Nakamura: Yeah.

Committee Chair Yukimura: So, we're saying 15(b) applies to certificates and that we want to post the certificates on the agenda? The fact that certificates will be presented or the actual certificates?

Ms. Nakamura: I think the key thing is how many of them right?

Committee Chair Yukimura: Well, the way to control it would be time, that they would be allotted half an hour for certificates or/and then you...okay, two...

Ms. Nakamura: That's the hard part, yeah?

Committee Chair Yukimura: Well, two certificates per meeting, but then you can have two really short ones or you can have two really long ones that will be very different in terms of time consumed.

Ms. Nakamura: What's the current practice? What...does staff try to regulate the awarding of certificates in any way? Do you try to stagger them?

Committee Chair Yukimura: I see our staff shaking their heads no.

Ms. Tanigawa: Yeah, it really is. It's whenever the councilmembers make the request.

Committee Chair Yukimura: Can you speak real loud so our public can hear.

Ms. Tanigawa: Councilmembers make the request. We may get it three days before, draft it up, have it ready, so it's...

Committee Chair Yukimura: You still have to talk louder.

Ms. Tanigawa: Oh, sorry, it depends on when the councilmembers make the request.

Committee Chair Yukimura: But with this rule now, then councilmembers will know.

Ms. Tanigawa: They'll know, but yeah, there's...

Committee Chair Yukimura: If they want to impose this rule on themselves. So that's going to be a matter of a vote.

Ms. Tanigawa: Right.

Ms. Nakamura: They may not like this rule, proposed rule.

Committee Chair Yukimura: No.

Ms. Tanigawa: There may be something that may come up.

Ms. Nakamura: Okay.

Ms. Tanigawa: Say a celebration or something.

Committee Chair Yukimura: Right, I mean it may even apply to us.

Ms. Tanigawa: Yeah.

Committee Chair Yukimura: So...

Ms. Nakamura: We...

Committee Chair Yukimura: Okay, so I mean that's why a guideline of 30 to 60 minutes, then the chair who initials these certificates will make some attempt to make it fit in the timeframe. That's one way. Or we just say two...not more than three certificates per meeting.

Mr. Morimoto: It would be because certificates aren't agenda items, the Chair technically doesn't initial it.

Committee Chair Yukimura: But we would make it by rule an agenda item.

Mr. Morimoto: Right.

Committee Chair Yukimura: Because they are a subject of the rule already. Certificates are in the rule, right? I thought I saw some place certificates. Oh, rule No. 11, certificates are non-legislative in nature and intended to recognize people or organizations for outstanding achievements. So they are subject to...of our rules.

Ms. Tanigawa: You may also want to keep in mind sometimes we have certificate requests for...well, teams and...

Committee Chair Yukimura: We discussed that...

Ms. Tanigawa: Yeah (inaudible).

Committee Chair Yukimura: ...and there's...every...that members of the teams come up two by two and discuss their memorable moments.

Ms. Tanigawa: Or they come after school.

Committee Chair Yukimura: Right. So we schedule them in our meetings all kinds of times.

Ms. Nakamura: Oh.

Committee Chair Yukimura: I mean... So okay, Jade, that's a good point that they can't all be scheduled at the beginning of meetings. There has to be some flexibility.

Ms. Nakamura: Okay.

Committee Chair Yukimura: That's a very good point. But you can still say no more than two certificates per meeting.

Ms. Nakamura: That...see, I would be comfortable with something like that. I don't think we should limit...it sounds like you need the flexibility on the time depending on who's receiving the certificate. So, to me two per meeting, you know, let's just regulate it that way. It seems like that's what you try to do anyway is try to stagger. So, why don't we rather than try to impose any time limits.

Committee Chair Yukimura: Okay, let's make that a suggested rule and I don't know where we want to place that. But I'm going to leave that up to council to look at.

Ms. Nakamura: How about under Rule 11.

Committee Chair Yukimura: Yeah or it might be better under agenda.

Ms. Nakamura: Okay.

Committee Chair Yukimura: But...let...

Ms. Nakamura: Okay, leave it up to Peter.

Committee Chair Yukimura: And then...okay and maybe that's all we need. We don't have to post it or anything. But then...then how about putting the 15 minutes up front before any certificates so people can come at 9 o'clock and testify if they cannot stay and they don't...they don't want to try to predict when to come back that they can be given that.

Ms. Nakamura: That's fine. I'm okay with that.

Committee Chair Yukimura: Should we give 15 minutes or 30 up to?

Ms. Nakamura: 15.

Committee Chair Yukimura: Up to 15. Okay, then and then on non-agenda...so that's on agenda items. And then on non-agenda items, do you just want to do more research first or do we want to try to articulate a rule right now?

Ms. Nakamura: This is one where I think I would be okay with articulating that the priority for the 15 minutes is for the agenda items, but that should there be time remaining that the public may use that for non-agenda items. But, you know, I'm open to what the other councilmembers say. But for myself, I'm comfortable with that.

Committee Chair Yukimura: Okay, then...we need to also...

Ms. Nakamura: With the time limit.

Committee Chair Yukimura: Yes, okay, so it's a 2-minute per non-agenda item; it's 3 minutes per agenda item with a 6-minute extension.

Ms. Nakamura: No extension.

Committee Chair Yukimura: No extension?

Ms. Nakamura: Just three minutes because 15 minutes isn't a lot of time for a lot of people.

Committee Chair Yukimura: Yeah, that's right.

Ms. Nakamura: So I would just say three minutes period. But if you stay for the meeting, you get the three minutes plus the three minutes.

Committee Chair Yukimura: All right.

Ms. Nakamura: If you're going to come up front, just want to do your thing, and go.

Committee Chair Yukimura: So three minutes per person for agenda item, two minutes for person on a non-agenda item with the priority being given to those who are speaking on agenda items, and no more than a total of 15 minutes for this section of the agenda on a first come, first served basis. Okay, good work. Anything else? Okay, we'll see how it's...

Ms. Nakamura: That works for me.

Committee Chair Yukimura: We'll see how it gets written up and we'll have further discussion on it, but at least we have a beginning framework. Okay, very good. Thank you.

No. 16, councilmember responses to testimony must be made before the meeting is called back to order. I think that was Mr. Mickens' point. He didn't like that we suspended the rules and heard people talk, we asked them questions, we called the meeting back to order, and then people would speak on what was said, but he didn't have a chance to respond, which I believe is the privilege of a councilmember, but that was a suggestion. I don't think you can control that by a rule because if it's the subject of an agenda item and you're voting on it, you have to have free range to speak on it. So can we just...

Ms. Nakamura: Yeah.

Committee Chair Yukimura: Okay, not deal with that or not...decide not to make any change. Yeah, right, no change.

Okay, No. 17, auditor's suggested rules. See public testimony from auditor. I think in discussions with Mr. Pasion it was mainly that he wanted clarification that the chair was the procurement officer, but he also submitted subsequent testimony that was attached to our agenda, which I am sorry to say I didn't...oh, he's attached sample rules or ordinances. Did you get to look at it? And do you have a suggestion? Talking to our counsel now.

Mr. Morimoto: No, I think...I mean this is kind of a policy call, not really...there aren't any really...real legal issues. It's just whatever the body would prefer.

Committee Chair Yukimura: So the question is whether...basically what I see at a...as a quick glance and someone will be happy...oh, Linda's not here, but there's a Long Beach City Charter. Oh, but this isn't a charter. This would be rules

pursuant to charter provisions and that's the question, whether we want to do quite detailed...see, oh, he has duties of the city auditor, which is comparable to duties of the council chair and duties of the clerk. I think we'll ask our counsel to write up a section of rules for the county charter...county auditor pursuant to our charter provisions using these samples, okay?

Ms. Nakamura: (Inaudible.)

Committee Chair Yukimura: And then we'll take a look at them. And these will all be circulated pri...oh, with the agenda, so six days prior to our decision making meeting, which... Our decision making meeting is what date?

Ms. Nakamura: I have February 28.

Committee Chair Yukimura: I believe that's correct and so then it has to be posted by the 22...23? One, two, three, four, five, six, 22nd? Okay, so then it will be circulated about then.

Ms. Nakamura: Well I had circulation...

Committee Chair Yukimura: Was it the 18th?

Ms. Nakamura: The 17th. That was from our last meeting.

Committee Chair Yukimura: Okay, thank you. Can you make that deadline? That's in one week?

Mr. Morimoto: I'll give it my best effort.

Committee Chair Yukimura: We need something...

Ms. Nakamura: Or it could be...to me it could be later than that.

Committee Chair Yukimura: Well, it's going to be no later than the 22nd.

Ms. Nakamura: There you go. That's...

Committee Chair Yukimura: That's your...

Ms. Nakamura: ...(inaudible) deadline.

Committee Chair Yukimura: That's your drop dead deadline.

Ms. Nakamura: Okay.

Mr. Morimoto: I'll try to get it done by (inaudible).

Committee Chair Yukimura: By the...

Mr. Morimoto: By the 17th.

Committee Chair Yukimura: Okay, that's fabulous. Okay, thank you.

Mr. Taylor: What's the date?

Committee Chair Yukimura: Well, we have an internal deadline of the 17th, but it will be circulated with the agenda for our meeting on the 28th, so it will come out on the 22nd or the 23rd to the public, okay? That's all February. All right.

Now we're on No. 18, allowances for expert or guest testimony to be longer than three minutes. 12(f) which presently reads...I don't see an (f). Do we have an (f)? Okay, so maybe I was suggesting that it be 12(f). Well, let's see, but this is 12(f) governing public hearings, not council or committee meetings. And the question is whether we would give longer time for guest or expert testimony.

Ms. Nakamura: Okay, it's 4(f) I think.

Committee Chair Yukimura: 12(4)(f)?

Ms. Nakamura: (e)4(f), (e)(4)(f).

Committee Chair Yukimura: Oh, thank you. 12(e)(4)(f) which says right...now e, f, oral presentations shall be limited to three minutes per speaker; extended time may be granted by the chair. The chair shall also have the prerogative to set speaking time for each witness and may also set the order of speakers speaking for or against any provision, and may notify the speaker of expiration of his speaking time 30 seconds before such expiration. And somebody, I'm not remembering who, suggested allowances for expert or guest testimony. It is often that we have expert or guest testimony at least at councilmember request at committee meetings or sometimes even council meetings. I can see where somebody could just come to a public hearing and not committee or council meetings, and where you might want to allow that. And the question is whether we want to put that in writing or just...the chair shall have the prerogative to set speaking time for each witness. I don't know if there's a definition of witness.

Ms. Nakamura: Oh this is for public hearings.

Committee Chair Yukimura: Yes.

Ms. Nakamura: Okay.

Committee Chair Yukimura: And may also set the order of speakers and may notify the speaker of expiration of his speaking time. I don't know. What is the pleasure of the committee? I mean there's already some discretion, right, because the chair says shall have the prerogative to set the speaking time for each witness. Now, in order...

Ms. Nakamura: For each...is it witness? Or is it the term...

Committee Chair Yukimura: Yeah, that's why I questioned what witness is. What was intended?

Ms. Nakamura: We're using per speaker, so we should probably...for each speaker, maybe we should be consistent there.

Committee Chair Yukimura: And then we could say that if there are any expert—I don't know what guest testimony is—expert witnesses, then the chair could allow a longer time.

Ms. Nakamura: I think it...it already says the chair has the prerogative. So I'm okay with this as it is.

Committee Chair Yukimura: Okay. The only thing would be if the chair gives more time for an expert witness, the definition of what an expert witness is because otherwise members of the public will be concerned that there might be favoritism, calling anybody an expert witness and giving them longer time to speak.

Ms. Nakamura: Okay.

Committee Chair Yukimura: Right? Can you see that not happening, possibly? What's an expert witness?

Mr. Morimoto: Well, I...my suggestion would be to leave that to the...

(?): Discretion.

Mr. Morimoto: ...discretion of the chair. Otherwise, you get into qualification problems. And then...I mean, are you going to let the public voir dire the witness and...

Committee Chair Yukimura: No, no. You're thinking too much court.

Mr. Morimoto: Yeah, so, you know, anyway, that would be my suggestion.

Committee Chair Yukimura: Okay, so then no change.

Ms. Nakamura: I'm okay with that.

Committee Chair Yukimura: Okay.

Rule 9, regarding petitions. Rule 9 presently reads, any person may petition the council. Petitions and other matters shall be in writing, with at least the name of the petitioner signed and printed. The petition shall be disposed of by the Chair, including its referral to the proper agenda.

There've been two suggestions and I believe it was Walter Lewis who said don't allow the chair to discard the petitions. I think he was reading disposed of by the chair as meaning a throwing away, but actually I think the intention here was to be disposed of, that is determined what happens to the petition next. And if that's not clear, we should clarify it.

Ms. Nakamura: Let's clarify it.

Committee Chair Yukimura: The petition shall be disposed of by the chair including its referral to the proper agenda...

Ms. Nakamura: Or proper committee.

Committee Chair Yukimura: ...and then there was a testimony, I think it was by Mr. Taylor, that there should be some time limit that it needs to be dealt with by the council within 60 days of the submittal of the petition.

Ms. Nakamura: Has the experience been that there have been petitions and then it just sits, that nothing happens to it?

Committee Chair Yukimura: Mr. Taylor's nodding his head.

Ms. Nakamura: Oh, okay.

Committee Chair Yukimura: Mr. Morimoto's saying there was one, at least one.

Ms. Nakamura: Okay, I see. Chair, I'm sorry, but I need to take a bathroom break.

Committee Chair Yukimura: Let's....good time. Let's take a five-minute break.

Ms. Nakamura: Okay and I don't mind continuing.

Committee Chair Yukimura: Oh, thank you. Yeah, let's take a break.

There being no objection, the meeting was recessed at 3:34 p.m.

The meeting was called back to order at 3:40 p.m., and proceeded as follows:

Committee Chair Yukimura: The meeting will come back to order and we're on Rule 9. And we were trying to modernize this rule too.

Ms. Nakamura: Good.

Committee Chair Yukimura: So, now I mean even a...you know, there's a question in my mind what's a petition, you know, because if somebody...you may petition your government, that's Bill of Rights No. I don't remember. And it didn't mean that you had to have this formal petition with signatures, but it meant you could write a letter to your government and say I would like this to happen.

Ms. Nakamura: More than one person signing?

Committee Chair Yukimura: Yeah, so see, any person may petition the council. Petitions and other matters shall be in writing with at least the name of the petitioner and it could be one, apparently, signed and printed. Now, see that could be a communication. There's something that's distinguishing a petition here. That's why there's a rule for it and I think it meant more signatures...I mean like a...many people signing a petition and asking from some action, but otherwise, it's just a communication. And it can be...a chair could get that letter and then send it to a committee or ask staff to answer it and that's it. So I see Mr. Taylor raising his hand. So, do you mind if we suspend the rules? Any objections? The rules are suspended.

There being no objection, the rules were suspended.

Mr. Taylor: Thank you, Chair, council or committee, it was explained to us last year that when you're petitioning the council, it was in reference to an action that had taken place, and this was a way of asking for reconsideration of an action. In the particular case of last year's action, there was some 20 people signed the petition asking for reconsideration. It never got to the

floor because the chair elected not to do it. And I don't think this activity has happened very often and so I think it's an important aspect of government and that...that's why I suggested that it be dealt with within a 60-day timeframe rather than to leave it open.

Committee Chair Yukimura: Well, okay. The...a request for reconsideration is sort of out of order after the next meeting because a matter can be reconsidered, technically speaking, only at the next immediate meeting. So, you, perhaps were using it in a different definition, the more generic term of would you please change the action you took several meetings ago. Because reconsideration of an item under Robert's Rules is...it has specific rules and I think it's in our rules isn't it?

Ms. Nakamura: It is under Rule No. 6(i).

Committee Chair Yukimura: And for one, it needs to be requested by a member who voted in the affirmative...

Ms. Nakamura: The majority.

Committee Chair Yukimura: ...when the matter was first disposed of by the council. And so the...what citizens would do would be to petition an individual member of the council or the members who voted in the affirmative to ask them to make a motion at the next meeting. And once the next meeting comes, you don't have that right to reconsider, the technical reconsideration. If, in the citizen's mind, it was to reverse an action of the council, then you can write...it's like a communication. It's like a communication and the chair would put it on the committee and...I mean on the agenda and somebody could make a motion to have a bill that reverses the action of the council if it's reversible. Sometimes it's not reversible. So I'm not sure what the matter was, the subject matter was of this petition, but coming to this, we have to distinguish a petition from a regular communication if it's going to get special treatment of some sort.

Mr. Taylor: I certainly agree with that and I...but...

Committee Chair Yukimura: Tell us what the background on...just so we know...in this one case where a so-called petition was presented to the council, what was the subject matter and the context of that petition.

Mr. Taylor: The council deferred an item off...for a number of months and it was the...the feeling of some of the public that that decision be reconsidered.

Committee Chair Yukimura: So that could have been treated as a communication, put on the agenda, it could have been received with discussion or no discussion, or there could have been some follow-up action made as a motion from one of the councilmembers, but...

Mr. Taylor: It was turned in to the council. From the rules and regulation it would go to the chair and the chair did nothing.

Committee Chair Yukimura: So what you're s...what the...actually what the citizens are asking for is that when they send something to the council and ask that it be put on the agenda that it be put on the agenda within a certain amount of days. That's what I hear you asking for, that any member of the public can get a matter on the agenda if they ask for it. And I'm...I'm not sure that that's...

Mr. Taylor: I don't think we're asking, in this particular case, there was no request for something special to be put on the agenda. It was...the request was...

Committee Chair Yukimura: For council action.

Mr. Taylor: (Inaudible.)

Committee Chair Yukimura: To reconsider the action.

Mr. Taylor: To reconsider the council action and I think that that's a fair...whether this wording deals with that properly or not is...but this...at that time it was my understanding, I didn't initiate the petition, I was a signature on the petition, but it was my understanding that the information that was given to them by the county clerk was that this was the procedure to follow for that activity.

Committee Chair Yukimura: Well.

Mr. Taylor: If the wording is incorrect, then we should consider changing it, but I think it should be considered or allowed that the public...

Committee Chair Yukimura: Because if you can't get a councilmember to move for a reconsideration, any councilmember, why should it go on the agenda if there's no votes at all in support of it? Now, I'm recalling that that might have been the bill proposed by Councilmember Bynum and Councilmember Kawahara to have the agenda items, attachments, and that was deferred for six months and people were outraged—some people were—but if you can't get the council to act on it, why do you want to rehash it? I mean, you're just going to go to the same result and it's going to be a waste of time.

Mr. Taylor: Well, I'm sure it's a waste of time to you and your colleagues.

Committee Chair Yukimura: But I mean...

Mr. Taylor: But it's not necessarily a waste of time to the public that feels that it should be reconsidered.

Ms. Nakamura: Okay, under the current rules under reconsideration, this is Rule No. 6(i), it says that when a motion has been made and carried in the affirmative or negative, only a member who voted with the majority may move at the same meeting or at the next regular meeting to reconsider it and such motion shall take precedence over all other questions except a motion to adjourn, except that pursuant to the charter when a bill fails to pass on final reading and a motion is made to reconsider, the vote on such a motion shall not be acted upon before the expiration of 24 hours. So, it seems like this process is in place and it's...this is...to me makes sense. So we should keep that process in place and...but the...and I think we should keep the current petition process in place. I don't...

Committee Chair Yukimura: But what do you...how do you distinguish what a petition is versus a communication that requests an...a reconsideration or even a certain action? I mean a petition can...but a petition won't be limited to reconsideration.

Ms. Nakamura: A petition could be anything.

Committee Chair Yukimura: It could be to anything.

Ms. Nakamura: Right.

Committee Chair Yukimura: So then, what...

Ms. Nakamura: So, I'm okay.

Committee Chair Yukimura: Okay, so how...so what do we say is a petition? How do we define petition?

Ms. Nakamura: To me it's just signed by, you know, more than one party. It doesn't say in our...there's no definition for what the petition is about, the contents of a petition.

Committee Chair Yukimura: Okay, I see what you're saying. Okay, okay, and then the petition shall be disposed of by the chair.

Ms. Nakamura: We can change that wording. I think we should treat it like a communication in a way where the chair has the...you know we added that language.

Committee Chair Yukimura: Okay, but then there's a difference.

Ms. Nakamura: And make proper disposition to, you know, make the referral to the appropriate committee.

Committee Chair Yukimura: Okay, so you know what is coming up here, the distinction between bills and resolutions and communications. Are we going to allow every communication has to be on the agenda? Not if it's sent to us and then we respond to it and that's it. It could be...end there. It doesn't have to be on the agenda. So, bills and resolutions have to be on the agenda. I think that's what we were thinking when we were talking about Rule 10. But let me see what Rule 10 says, general provisions regarding bills, resolutions, motions and amendments. So yes, we're not talking about communications, we're talking about bills and resolutions. So a petition comes to the chair and the chair could write back and say thank you, we have received it, I've circulated it among all members, and that's it. But that's not what citizens want.

Mr. Taylor: I think what...as it was explained to the group back last summer, that the petition would allow it to be...come to the council on the agenda and that it would, you know, (inaudible) if there's no interest, fine, there's no interest, but you've notified the community that there's no interest in revisiting that. But it's done in a legal, proper manner. It just gives the citizen an opportunity to petition the council in reference to an item that they've dealt with.

The issues that Nadine raised about the procedure for the council activity, having to be on the next agenda, etcetera, etcetera, that's one thing. This is a situation for the public to participate in what government is doing.

Ms. Nakamura: We could actually add to Rule No. 3, the amendment that Peter Morimoto put together, Rule No. 3, the first amendment. We could also add receive all reports, communications...we could stick in petitions. And immediate...and then this is the role of the chair, right...immediately make the proper referrals of these matters to the council or to the appropriate committee chair persons. We could say, all communications and petitions should be numbered and made available to the public except as otherwise provided by law. Would that be a problem?

Mr. Morimoto: When you say made available, what do you mean by that?

Ms. Nakamura: I don't know. How do you make all communications available to the public? You're doing it now, all communications shall be numbered and made available to the public.

Mr. Morimoto: I think that refers to communications that are placed on the agenda.

Ms. Nakamura: Oh, okay, so not all communications are placed on the agenda.

Mr. Morimoto: No.

Ms. Nakamura: I see, okay.

Mr. Morimoto: That's where the discretion of the chair comes in.

Ms. Nakamura: Okay. So maybe just put petitions in in the first sentence, where they receive...the chair receives these petitions and will make the proper referral either to the council or to the appropriate committee chair. So I'm saying kind of treat it like a communication in a way but leave it up to the chair to determine where it goes. Or you could add that language in the section on petitions, Rule No. 9, which is pretty much what it says. The petition shall be disposed of by the chair.

Committee Chair Yukimura: Right.

Ms. Nakamura: So, maybe we could just change, maybe just clarify that language because I think that was the initial concern, "disposed of," people thought thrown away, so.

Committee Chair Yukimura: So using the word of the chair shall make...

Ms. Nakamura: Receive petitions.

Committee Chair Yukimura: And make proper referrals.

Ms. Nakamura: Yeah, shall receive petitions.

Committee Chair Yukimura: But this does say referral to the proper...including its referral to the proper agenda, so it implies that it would go on the agenda. So you could just say the petition shall be referred by the chair to the proper agenda. But that means that it has to get on an agenda and that is what the citizens want. Whether there's...that would cause problems is the question. So what kind of problems...well, see that's why I want...it's not just any letter from any person that would go on the agenda, that's my concern. And that's why I would want to distinguish a petition from other regular communications.

Ms. Nakamura: Okay.

Committee Chair Yukimura: I mean if you have a...so what...I'm su...let's look up the definit...Wikipedia definition of petitions, but I'm thinking that it's a request for action or a position and it's signed by people...and would be signed by more than one or two or three or five or have at least five signatures on it, you know. And then would we allow that to get on the agenda within so many days, so 120 days? Mr. Taylor has input.

Mr. Taylor: It hasn't been a problem in the past, so I don't think that it's that big of a thing to deal with.

Committee Chair Yukimura: You may be right.

Mr. Taylor: The important thing is that when it does happen, it should be dealt with. But I think when it says here the petition shall be disposed of by the chair, the petition may have something to do with some committee action that...so the chair would then address the petition to the chair of the committee and not necessarily to the agenda. But then it goes on to say including its referral to...I mean if it's...if a petition deals with an item from the agenda of the council, then that petition should be allowed to come back on the agenda for consideration. It can be disposed of very quickly in a meeting if it so desires.

Committee Chair Yukimura: Yeah, just receive it.

Ms. Nakamura: How about the petition shall be received by the chair and...and something along the lines that the chair shall make referrals to the appropriate committee chair or council because it might be a com...you know, it might be the full council, but just to make the appropriate referrals period. And take out the part about about the agenda. Because it's up...it would be the chair, the committee chair or the council chair to make that decision.

Committee Chair Yukimura: Okay. Does that...

Mr. Taylor: And then what's the timeframe? But I...I'm concerned about taking out the agenda because what's the purpose of petitioning an action if it can't be on the agenda?

Committee Chair Yukimura: Are we distinguishing it from any other communication?

Ms. Nakamura: There we go back to the...

Committee Chair Yukimura: Or is it every co...any communication shall be put on the agenda.

Ms. Nakamura: And what we're saying...hearing is that not all communication is placed on the agenda.

Committee Chair Yukimura: Right, that's why if you distinguish it, it'll be fewer. And if you distinguish it and then you say, shall be put on the agenda, you want to really distinguish it to the certain...some...what did they have in mind when they were thinking petitions?

Ms. Nakamura: Yeah.

Committee Chair Yukimura: You know what I mean? So, why don't we have...

Ms. Nakamura: We need to get some...

Committee Chair Yukimura: Why don't we look at a definition of petition and then we'll look at maybe referring it to the agenda with...and then maybe choose to just...I mean, well, okay and have the option of either referring it to the agenda or referring it to the chair and the committee chairs, and see how that'll work. Because I think if we can define petition to make it a pretty irregular event, not one that...infrequent event, then it might be okay to get it on the agenda and just receive it as an option.

Mr. Taylor: It has been...

Committee Chair Yukimura: If there's a lot of communications and we ca...if it covers or includes a lot of communications, then it's a problem.

Mr. Taylor: Communication is one thing, but again I think a petition should refer to Rule No. 9 and blah, blah, blah.

Committee Chair Yukimura: But we're just trying to distinguish what we mean by petition.

Mr. Taylor: I understand that.

Committee Chair Yukimura: Yeah, so...so let's get...let's give it a try to define it.

Mr. Taylor: But I think keep in mind that it hasn't really been a problem and I don't anticipate it being a problem in the future and if it did become a problem in the future, you can always quickly put this back on the agenda for a change.

Committee Chair Yukimura: Yeah, yeah, but not on that particular case where it came up to us. Okay, thank you. And we're back to order.

There being no one else wishing to testify, the meeting was called back to order, and proceeded as follows:

Committee Chair Yukimura: So, we're going to look at a definition of petition and then we'll look at how we want the referral to be made, look at our options on that one. All right.

14(j). We should really try to tie up here. I'm trying to remember where my 4:30 p.m. appointment is.

Ms. Nakamura: The fire, the helicopter.

Committee Chair Yukimura: No, no, I'm not going to that. 14(j) regarding public hearing time. Why would it be 14(j)? Let's look under public hearings. (e), (f), (g), (h), (i), (j), 14(j) is the chair may restrict or terminate a speaker's right to the floor for intemperate or abusive language. Wow, that doesn't need changing.

Ms. Nakamura: Rule 14(j).

Committee Chair Yukimura: Yeah.

Ms. Nakamura: Public hearings may be held at the times that in previous meetings...

Committee Chair Yukimura: Oh, excuse me. Rule 14(j)? Oh, excuse me, okay, public hearings may be held at the time set in previous meetings of the council. I don't see any problem with that.

Ms. Nakamura: Yeah, I don't see any problem.

Committee Chair Yukimura: Okay, no change.

Workshop rules. Councilmember Nakamura and I had a chance to discuss that during the break and let me just explain why that's on there. I put that on there. And I've had experience...our methodology of workshops is to have the public hearing format where people come and testify. It doesn't...it's not very conducive to the give and take that we just experienced with Mr. Taylor, and the give and take wasn't a problem where there's only two people in the meeting. But if we have a roomful of people who want to participate in the workshop, we're thinking that there might be a format other than the public hearing format that might be more conducive to creative, constructive work. And I was relating to her that I broke all the rules and did a more inclusive workshop format when we dealt with the ordinance that followed up on our charter...open space charter amendment when we were developing the ordinance for that. And it was more like a large group meeting with a facilitator and a lot of exchange. So, are you willing to work on some draf...on drafting some rules that might enable that?

Ms. Nakamura: Yup, okay.

Committee Chair Yukimura: So Councilmember Nakamura is going to give it a try. And with her background in facilitating meetings, I'm really eager to see what she comes up with and it's a starting point and we'll vet it through the whole rules process. Okay, Ken...if you do it really quickly. The rules are suspended.

There being no objection, the rules were suspended.

Mr. Taylor: As far as the workshops are concerned, shouldn't it just be given to the chair of the committee that's doing that workshop how they want to run their meeting. I don't think you need to make a big long list of rules and regulations. Just give it...give the option of how it's done to the chair.

Committee Chair Yukimura: That would make for a lot of experimentation and creativity. So that certainly is an option. Thank you.

There being no one else wishing to testify, the meeting was called back to order, and proceeded as follows:

Committee Chair Yukimura: Meeting back to order and we're on the last item 15(c) communication from members shall be allowed on the agenda. 15(c)? Oh, the chair shall prepare and post...I think that's coming back to the Rule 10 issue and all of that. So...

Ms. Nakamura: Okay, I think we addressed that, 15(c).

Mr. Morimoto: (Inaudible) 120 day?

Committee Chair Yukimura: Well, for one thing I think we're...this thing about enabling or checking against abuse by the chair who does not want to put an item on the agenda ever, that only applies to bills and resolutions. I think we should start there. We shouldn't allow any communication to have to be placed on the agenda. I think we have to give the chair some discretion on that. And then we're going to set some rules for a petition and we're going to have a time...a deadline for bills and resolutions, which are of a high order of council business, right? So...

Mr. Morimoto: (Inaudible.)

Committee Chair Yukimura: Yes. Oh, councilmembers...communications from councilmembers? What would that be...what would it be in the nature of other than resolutions and bills? Oh, yeah, it could be a request for consideration...

Mr. Morimoto: To allow a speaker like the (inaudible).

Committee Chair Yukimura: DeVries, to allow a speaker. What chances are there for abuse? What else could it be? It could be to appeal the decision of a chair, although that's usually made on the spot. But if it's a decision of the chair that wasn't made at a meeting, so that like a decision of the chair to not include an item on the agenda, then how do you appeal that decision but by putting it on the agenda where the council or the full council can vote on it. So that would be a case in where the chair might have an incentive not to ever put it on the agenda.

Mr. Taylor: (Inaudible.)

Committee Chair Yukimura: Okay, why don't we prepare an amendment to this Rule 15 that addresses communications or maybe we want to make it the same rule that applies to bills and resolutions. Why don't we just do that and see what the council thinks about it. But it's not communications from anybody or in the public. It's from members, councilmembers...communications from councilmembers. And see what the body thinks because I have a hard time getting my arms around the issue and the necessity and...but I can see where appealing actually...because I'm going to need to put an item on the agenda asking that we set the clerk's pay because we haven't yet set it as a council and I believe we have the respons...the charter says that the council sets the clerk's pay. So, if the chair doesn't put that on, that's not going to be a bill or a resolution, but it will be an

issue. And if the chair doesn't do it, that would be a protection against the chair not doing it. Okay. And I don't think the chair, in our case, is going to be a problem. I think he's going to handle it in the appropriate manner.

Ms. Nakamura: Yeah, right, right.

Committee Chair Yukimura: But...and a chair that's not doing it in an appropriate manner, this would be a check on that kind of chair. Okay, anything else?

Advisory committees, Rule 9 and Kaua'i rule 4(d). Let me look at 4(d).

Ms. Nakamura: Oh, there's more?

Committee Chair Yukimura: Yeah, there's No. 9, we never really talked about on our list.

Ms. Nakamura: Oh, I'm sorry.

Committee Chair Yukimura: 4(d) and I'm sorry I'm just trying to get the last one in so we can be complete. 4(a), (b)...oh, special advisory committees shall be appointed by the chair. Oh, I know I wanted to say or standing committees could appoint advisory committees too. If we wanted help from people in the community on a more long-term basis than one committee meeting or one workshop, we could form advisory committees, not just the council, which would be advisory committee to the council. But for example, I would...I could conceivably want a transportation advisory committee to advise my committee on transportation or on housing and if you wanted to form it, it would be a matter of the committee voting to form it. It would still require the majority of the committee. Right now, you can only have an advisory committee appointed by the council.

Ms. Nakamura: But you can have a sub-committee.

Committee Chair Yukimura: But it would be only of councilmembers, not of advisory experts, you know even like on the shoreline setback bill or on vacation rental bill, we had a...we actually had a committee, which was appointed by the council which, in that case, was appropriate.

Ms. Nakamura: Your thing is you don't...you want the committee to be able to do it and not have to go through the full council.

Committee Chair Yukimura: For matters that the committee is considering.

Ms. Nakamura: Okay.

Committee Chair Yukimura: So it would just be the amendment or standing committee appointed by the council or standing committee and let's throw it out and see what other members think.

Ms. Nakamura: Okay, that's fine.

Committee Chair Yukimura: Okay and look at City & County Rule No. 9. They had, I think, a more developed rule. Okay, is there anything else? We're really over time, but we have done good work.

Ms. Nakamura: Actually I didn't get to...

Committee Chair Yukimura: Oh yeah, okay.

Ms. Nakamura: There were a few things that I wanted to add. One is Honolulu's Rule No. 33 on nepotism.

Committee Chair Yukimura: Okay.

Ms. Nakamura: Currently the council and the county as a whole does not have a nepotism rule. So I think this is a good place to start.

Committee Chair Yukimura: And it's in City & County's rule. Okay, good.

Ms. Nakamura: And I like the way it's written.

Committee Chair Yukimura: Good.

Ms. Nakamura: The...also, Honolulu also has a travel rule, page...I think it's Rule No. 34 that goes to sort of the public testimony about when councilmembers or anyone travels that you do a report, just a short...it's nothing detailed, but a report on what some of the learnings were. Now whether you want to present that at, you know, to the...in a public meeting or not, but it's something that's on record that explains what was gained from that public investment. So that's something of...that was a good thing.

And...okay, I don't know if we want to go here, go in this direction, but I did hear from one councilmember that he did want to have invocations at council meetings. And Honolulu has done a lot of research in this area to make it consistent with Supreme Court rulings. So the invocation, ru...page 23 of the Honolulu rules includes language that I think is pretty current on what is permitted under the...

Committee Chair Yukimura: What rule is that number?

Ms. Nakamura: I don't know the rule number, but it was page 23(e).

Committee Chair Yukimura: Okay, of City & County.

Ms. Nakamura: Yeah.

Committee Chair Yukimura: You know that we do have invocations?

Ms. Nakamura: I heard we did.

Committee Chair Yukimura: I think it's the...and I don't believe the practice has stopped, right? We have the first council meeting of every month. Have we stopped? No, we still doing it?

Ms. Nakamura: We didn't have one yesterday. Oh, maybe the second meeting. Okay, well...we don't have anything in our rules regarding that and I don't know if that's where we want to go, but I just want to bring it up because a member did mention it. So if we are going to go that route, I think we need to be covered.

Committee Chair Yukimura: Okay, so please verify, staff, are we doing it or have we stopped the process that we were doing?

(?): I don't recall that.

Committee Chair Yukimura: Maybe it stopped since Ernie left because...

Ms. Nakamura: I think since Mel left. Mel used to...oh, maybe...Mel said he used to organize it. No? Okay.

Committee Chair Yukimura: No, Ernie got...but it was all faiths and it was before the meeting and it wasn't a formal part of any meeting.

Ms. Nakamura: Okay.

Committee Chair Yukimura: I mean that's one decision point whether we want to make it a formal part because that would, I think, make it more questionable in terms of a...in terms of Supreme Court ruling. But an informal before the meeting, all faiths, I thought was the way we worked on it...we worked around it.

Ms. Nakamura: Oh.

Committee Chair Yukimura: But maybe it stopped.

Ms. Nakamura: For a reason.

Committee Chair Yukimura: Yeah, for the reason...I don't know if the Civil Liberties Union threatened to file a lawsuit or what. Or it just stopped because Ernie left and it...you know and...

Ms. Nakamura: Nobody to organize it.

Committee Chair Yukimura: Or the chair made a decision not to continue this informal practice or I don't know what, but it was going on until I left office in 2008. Okay, so Peter, can you find out what happened to the practice and can you check the law to see if we want to even make it part of the rules or not, based on Supreme Court ruling. And then if the decision is that it's not really a good idea to include it in our formal rules, then we don't go there and then it becomes a matter of informal organization.

Ms. Nakamura: Okay. Then skipping to Rule No. 7 on appeals.

Committee Chair Yukimura: Okay.

Ms. Nakamura: One thing that I saw in the Honolulu rules is that if there is a tie...okay, this is a council or committee may, by a majority vote, overrule the decision of the chair upon a motion of appeal which is duly seconded. A tie sustains the chair is what Honolulu has.

Committee Chair Yukimura: And it's actually...

Ms. Nakamura: Is that...

Committee Chair Yukimura: It's in our rules about motions, yeah.

Ms. Nakamura: Okay, so is that covered?

Committee Chair Yukimura: It is covered. I believe so because you're required four votes. Let's see, where is that?

Ms. Nakamura: Okay.

Committee Chair Yukimura: Where is it, though? I don't know where it is. Okay, so let's check on that to be double sure and let's cite the rule where it does clarify it and if not, let's put it in...voting required. Council absence, tie vote, let's see.

Ms. Nakamura: Anyway, if you could just look into that.

Committee Chair Yukimura: That's good. We should look into it.

Ms. Nakamura: Then on Rule No. 12, public hearings, 12(d), second paragraph. Can you also look into this section? I just want to make sure that this doesn't...to me when I read it, it doesn't comply with the sunshine law. So I just wanted to make sure that...if it complies, then leave it in. If it doesn't, we should remove it.

Committee Chair Yukimura: So, it reads, if a petition signed by at least 50 people request the public hearing to be held at another available public facility related to the subject matter of the public hearing and/or another available time, and the petition is submitted to the office of clerk and time stamped before noon on the day before the meeting when the public hearing date is established, then the public hearing shall be held at the requested available public facility or time...and/or time unless otherwise provided by law.

Ms. Nakamura: So that's only like less than a day before the...

Committee Chair Yukimura: Yeah and the place can be somewhat remedied by having the place that was originally set and a sign that directs people to another place as long as it's still in Lihu'e or something. But the time is a problem, that you would tell people a different time, yeah. So maybe this is obsolete and it came before the sunshine law requirement. So we may want to alter that to make sure that it works with the sunshine law. Okay. Got that?

Ms. Nakamura: Also in this section on the conduct of public hearings, that's (e), excuse me, 4 on the next page at the top, the following rules shall be read or available for distribution by the clerk. You know, Maui Code page 13 had some information on written testimony that I thought was useful. So, I don't have it in front of me now, but...then are public speakers, this is a question, are they required to bring copies of written testimony?

Committee Chair Yukimura: No.

Ms. Nakamura: They're not? Okay.

Committee Chair Yukimura: We could require it if we want. I think the legislature does that. Do they? I don't know.

Ms. Nakamura: Okay. I think what they have is public speakers are requested to bring blank copies of written testimony. So, I'm not sure if...how we handle it, if it's more informal here.

Committee Chair Yukimura: Well, you know, we're taking min...we take verbatim minutes at public hearing, so...

Ms. Nakamura: Okay.

Committee Chair Yukimura: ...that's actually a better record of what's said than the written because people will deviate or add or whatever.

Ms. Nakamura: Okay.

Committee Chair Yukimura: But I don't know, Wilma, is that easier for you if they have a written copy that we should request it? And if we do, we should just request one copy because it gets onerous to require 15 copies or you know.

Ms. Nakamura: But at least one copy that can be distributed to the members. I think...we usually get copies.

Committee Chair Yukimura: So we can make it not mandatory, but requested also. That's another way to do it.

Ms. Nakamura: Yeah, just to bring one copy that we can then make copies of.

Committee Chair Yukimura: Okay, and you said public hearing...you referred to the rules in which...Maui?

Ms. Nakamura: Page 13.

Committee Chair Yukimura: Okay. Anything else?

Ms. Nakamura: That's fine.

Committee Chair Yukimura: Okay. And we can still bring forth suggestions in other...I mean we're not limited to this, but the sooner we get it in writing, the better for everybody. So there's still time to do that.

Ms. Nakamura: We're getting there.

Committee Chair Yukimura: Yeah. Okay, is there further business? If not and if there are no objections to adjournment, the meeting is adjourned.

ADJOURNMENT.

There being no objection, the meeting was adjourned at 4:23 p.m.

Respectfully submitted,

Wilma Akiona

WILMA AKIONA
Council Services Assistant

/wa

Rule No. 1

Add a new section (g) to read as follows:

(g) Notices for all regular, standing committee, special and executive session meetings shall be posted on the County of Kaua'i's website. Failure to post notices on the County of Kaua'i's website shall not invalidate any action taken by the Council or its committees if notice was given in accordance with Chapter 92, H.R.S.

Rule No. 2

Amend Rule No. 2 as follows (bracketed material to be deleted):

RULE NO. 2

QUORUM AND VOTE: EXCEPTIONS LISTED

(a) Council. A [physical] majority (4) of the entire membership of the Council shall constitute a quorum and the [physical] majority (4) vote of the entire membership shall be necessary to take any action; provided, that an affirmative vote of at least two-thirds (5) of the Council shall be required for the following:

- (1) To authorize the issuance of general obligation bonds;
- (2) To override the Mayor's veto; and
- (3) To suspend without pay for not more than one month any member for disorderly or contemptuous behavior or for personal vilification in its presence.
- (4) In the absence of a [physical] quorum during any official meeting of the Council, the Council shall:

- (A) Recess its meeting to seek out a quorum; or
- (B) Adjourn its meeting for lack of a quorum to a specified time and place.

(b) Committee. A [physical] majority of the membership of a Committee shall constitute a quorum, and a [physical] majority vote of the membership entitled to vote shall be necessary to take any action.

In the absence of a [physical] quorum during any official meeting of the Committee, the Committee shall:

- (1) Recess its meeting to seek out a quorum; or

provided by Council staff at 2-10-2011 Rules meeting

(2) Adjourn its meeting for lack of a quorum to a specified time and place.

(c) A [physical] majority of less than a quorum may adjourn from day to day and shall have power to compel the attendance of absent members.

Rule No. 3

Add a new section to Rule No. 3 to read as follows (from Hawai'i County Council Rule 4.2):

Receive all reports, communications, bills, resolutions, and other items from the public, the Mayor, various departments of the government, and individual Council Members, and immediately make the proper referrals of these matters to the Council or to the appropriate Committee Chairperson(s). All communications shall be numbered and made available to the public, except as otherwise provided by law.

Add a new section to Rule No. 3 to read as follows: (from Maui County Council Rule 6.A.14):

Hold a Chair's meeting, as needed, to informally discuss scheduling, operational, or procedural matters, that are within the decision-making authority of the Chair or a committee chair, and that do not require Council approval; provided, that all Council members shall be given written notice of the date, time and place of the meeting, and the topics to be discussed; and provided, further, that a quorum shall not be required.

Rule No. 10

Amend Rule 10(c) to read as follows:

All bills and resolutions must be initialed by the Council Chair or, in the Chair's absence, the Vice Chair (or other designated chair as stated in Rule 3) in order to be placed on the agenda; provided that bills and resolutions shall be placed on the agenda within two scheduled meetings of the date of the written request by a Councilmember to the Council Chair.

ps
provided, Council staff at 2-10-2011 Rules Meeting

IDEAS FOR RULE CHANGES

1. Table of Contents—do we want? (see other counties)
2. Adoption and Amendment History of Current Council Rules—do we want?
(see City and County of Honolulu (CCH))
3. Credentials Committee – delete? Rule 1(a)(2)
4. Order of Committees on Committee Meeting Day Rule 1(c)
5. Rule 1 (b), (c), (d), (e) Notice on website Sunshine Law
6. Remove “physical” from phrase “physical majority” in quorum requirement
7. Rule 3 Add to duties of Chair
 - a. Assign duties not otherwise assigned by law or in these rules to the Clerk or County Auditor (HI)
 - b. Receive all communications and present them to the Council or committee before which the subject matter is pending See also CCH Rule 4, B(10), (p.4) and HI Rule 4 2(f). May also have bearing on Rule 10.
 - c. Dispose of matters properly brought before the Council, subject to appeal to the Council (HI)
 - d. Hold at least one chair’s meeting in each quarter of the year. See Maui Rule 6 A14.
8. “Journal” in Rule 3(c)(4)
9. Advisory Committees – CCH Rule 9 and Kauai Rule 4(d)
10. Rule 6(c) to “postpone or defer”

11. Rule 6(f) – Allow introducer of bill to speak as long as he wishes
12. Rule 10 – Getting bills or items on agenda
13. Consent Calendar
14. Public speaking time
 - a. 15 minutes
15. Certificates and Other Recognition
 - a. limit overall time or number of certificates
 - b. post on agenda
16. Council Member Responses to Testimony
 - must be made before meeting called back to order
17. Auditor's suggested rules. See public testimony from Auditor
18. 12(f) - Allowances for expert or guest testimony – to be longer than three minutes.
19. Rule 9 - Don't discard petitions.
20. 14(j) – Regarding public hearing time.
21. Workshop Rules
22. 15(c) – Communications from members shall be allowed on agenda